



Personnel Rules and Regulations for General Employees

Preface

The Personnel Rules and Regulations for General Employees (referred to as the “PRRs” hereafter) of the City of Fort Worth (“City”) are authorized under the City of Fort Worth Municipal Code, Chapter 2, Article V, entitled Human Resources. They are based upon the merit principles outlined in the article. These rules and regulations (also referred to as “PRRs,” “policy” or “policies” going forward in this document) do not confer legal rights to employees. They are established in good faith and are intended to comply with applicable federal, state and local statutes.

These PRRs do not apply to firefighters or police officers as those terms are defined in Texas Local Government Code section 143.003. These policies do apply to police and fire trainees who have not yet been appointed in substantial compliance with chapter 143.

Mission, Values, and Vision

The City of Fort Worth’s mission is “***Working together to build a strong community.***” To accomplish this mission, employees at the City of Fort Worth provide municipal services to over 780,000 residents. Each day, these employees are moving about the city, doing work that helps make Fort Worth a strong community and a great place to live. There are six values that guide our employees as they go about this work. They are:

- ***Exceptional Customer Experience***
- ***Accountability***
- ***Ethical Behavior***
- ***Diversity***
- ***Mutual Respect***
- ***Continuous Improvement***

As Fort Worth continues to grow and change, these principles help keep employees on point, providing the best service to citizens, businesses and fellow employees. City employees are guided by the City’s mission and values to work toward the vision that “***Fort Worth will be the most livable and best managed city in the country.***” The City’s mission, values, and vision serve as the foundation for information contained in the Personnel Rules and Regulations.

Amendments

The City Manager, or his or her designee, with advice and assistance from the Human Resources Department, develops, adopts, and promulgates Personnel Rules and Regulations for all City employees who are, directly or indirectly, under the City Manager’s supervision and control. From time to time amendments to the *Personnel Rules and Regulations for General Employees* are made in the interest of good and efficient business practices and to comply with changes in federal, state or local statutes.

Department Rules and Regulations

A City department, with approval of the Department director, may establish additional rules and regulations for their department that are not specifically addressed in the *Personnel Rules and Regulations for General Employees*. A Department director may approve departmental policies that are more restrictive or controlling than policies in the *Personnel Rules and Regulations for General Employees*. The Human Resources Director or Assistant Human Resources Directors may require a department policy to be changed or reversed if considered to be in conflict with the *Personnel Rules and Regulations for General Employees*. Department rules and regulations must be consistently applied in a non-discriminatory manner.

Waivers

Application of a specific provision of the PRRs may be waived only if approved by the Human Resources Department Director, or his or her authorized designee. To obtain a waiver, a written request must be sent from the requesting Department Director to the Human Resources Director. The request should identify the applicable rule or regulation to be waived and the justification for the waiver. The Human Resources Director reviews each waiver request on a case-by-case basis and approves or denies the request.

Clarifications

In situations not covered specifically by the *Personnel Rules and Regulations for General Employees*, employees of the Human Resources Department authorized by the Human Resources Director may provide an interpretation or clarification based on the perceived intent of the *Rules and Regulations*. Individuals with questions or requests for clarifications must verify that the contacted employee is authorized to provide an official response. The Human Resources Department also publishes HR Advisories on various topics. These HR Advisories are intended to assist with the clarification or interpretation of Personnel Rules & Regulations, provide guidelines on procedures, provide additional detail or information on a Rule, describe best practices or serve as a teaching resource.

Table of Contents

1. HIRING	- 13 -
1.1 Purpose and Introduction	- 13 -
1.2 General Hiring Guidelines	- 13 -
1.3 Equal Opportunity	- 13 -
1.4 Employment Verification	- 13 -
1.4.1 Employment Verification and References	- 14 -
1.4.2 Verification of Education/Certification/License Qualifications	- 14 -
1.5 Minimum Employment Age	- 14 -
1.6 Eligibility to Work in the USA	- 15 -
1.7 Driver's License Verification and Record Check	- 15 -
1.8 Criminal Records Check	- 16 -
1.9 Employment Testing	- 16 -
1.10 Hiring Below Entry Level Salary Rate	- 17 -
1.11 Hiring Salary	- 17 -
1.12 On-Site Hiring	- 17 -
1.13 Overfilling Positions for Training Purposes	- 17 -
1.14 New Employee Orientation	- 18 -
1.15 Direct Deposit or Alternative Payment Method	- 18 -
1.16 Reemployment	- 18 -
2. COMPENSATION AND PERSONNEL ACTIONS	- 19 -
2.1 Purpose and Introduction	- 19 -
2.2 Nonexempt Employees' Pay Plan	- 19 -
2.2.1 Base Pay for Nonexempt Employees	- 19 -
2.2.2 Personnel Actions and Nonexempt Employee Pay	- 20 -
2.3 Exempt Employees' Performance Pay Plan	- 22 -
2.3.1 Pay Grades for Exempt Employees	- 22 -
2.3.2 Personnel Actions and Exempt Employee Pay	- 23 -
2.4 Exceptions to the General Guidelines for Employee Pay	- 25 -

2.5 Fair Labor Standards Act (FLSA)	- 25 -
2.5.1 Travel Time	- 26 -
2.5.2 Training Time	- 27 -
2.6 Overtime Pay/Compensatory Time	- 28 -
2.6.1 Nonexempt Employee Overtime Pay or Compensatory Time	- 28 -
2.6.2 Exempt Employee Overtime Pay or Compensatory Time	- 29 -
2.6.3 Promotions and Demotions and Paying Out Compensatory Time	- 30 -
2.6.4 Mandatory Use of Compensatory Time	- 30 -
2.6.5 Overtime Pay and Federal Grants	- 30 -
2.7 Special Pays	- 31 -
2.7.1 Holiday Pay, Holiday Premium Pay and Holiday Leave Accrual	- 31 -
2.7.2 Shift Differential Pay	- 33 -
2.7.3 Incentive and Lump-Sum Awards	- 33 -
2.7.4 Special Merit Pay	- 36 -
2.7.5 Equity Pay	- 37 -
2.7.6 Acting Pay	- 37 -
2.7.7 Bilingual Skills Pay	- 38 -
2.7.8 Emergency Callback Pay	- 38 -
2.7.9 On Call or Standby Duty	- 39 -
2.7.10 Longevity Pay	- 40 -
2.7.11 Uniforms/Personal Protective Equipment	- 41 -
2.8 Conditions of Pay	- 41 -
2.8.1 Payroll Deductions	- 42 -
2.8.2 Recovery of Inaccurate Pay or Benefits	- 42 -
2.8.3 Deductions from Exempt Employees' Pay	- 42 -
2.8.4 Pay Following Failure to Complete Probation	- 44 -
2.8.5 Final Pay at Termination or Retirement	- 44 -
2.8.6 Release of Payroll Advice	- 44 -
2.8.7 Prior Pay Period Adjustments for Pay or Leave Corrections	- 44 -
2.8.8 Daylight Saving Time Pay Considerations	- 45 -
3. CLASSIFICATION	- 46 -
3.1 Purpose and Introduction	- 46 -
3.2 Reclassification	- 46 -
3.3 Reclassification Appeals	- 47 -
4. EMPLOYMENT	- 48 -
4.1 Purpose and Introduction	- 48 -
4.2 Personnel Actions	- 48 -
4.2.1 Promotion, Demotion, Transfer	- 48 -
4.3 Conditions of Employment	- 49 -
4.3.1 Probationary Periods	- 49 -

4.3.2	Secondary Employment	- 51 -
4.3.3	Employee Personnel Records	- 52 -
4.3.4	Nepotism (Employment of Relatives) and Personal Relationships	- 53 -
4.3.5	Searches on City Property	- 53 -
4.3.6	Lunch and Rest Periods	- 54 -
4.3.7	Professional Dress Policy	- 54 -
4.3.8	Participation in Special Events and Voluntary Committees	- 55 -
4.3.9	Participation in City-Sponsored Events	- 55 -
4.3.10	Court Duty	- 56 -
4.3.11	City Auctions	- 56 -
4.3.12	Smoking in the Workplace	- 56 -
4.3.13	Prayer in the Workplace	- 56 -
4.3.14	Political Activity	- 57 -
4.3.15	Nursing Mothers	- 57 -
4.3.16	Parent/Teacher Conferences	- 58 -
4.3.17	Children in the Workplace	- 58 -
4.3.18	Working from Home	- 59 -
4.3.19	Employee Organizations and Associations	- 59 -
4.3.20	Employee Identification Badge	- 60 -
4.3.21	Inclement Weather/Disaster Policy	- 61 -
4.3.22	Furloughs	- 61 -
4.4	Non-Disciplinary Terminations	- 63 -
4.4.1	Reduction in Force	- 63 -
4.4.2	Employee Resignation	- 64 -
4.5	Termination Processing	- 65 -
4.5.1	Voluntary Termination	- 66 -
4.5.2	Involuntary Termination	- 66 -
5.	LEAVE	- 67 -
5.1	Purpose and Introduction	- 67 -
5.2	Vacation Leave	- 67 -
5.3	Major Medical Sick Leave	- 68 -
5.3.1	Funeral and Bereavement	- 70 -
5.3.2	Major Medical Sick Leave Accrual Rates	- 70 -
5.4	Short-Term Sick/Family Leave	- 71 -
5.4.1	Short-Term Sick/Family Leave Accrual Rates	- 71 -
5.5	Old Sick Leave	- 72 -
5.6	Family and Medical Leave Act	- 72 -
5.7	Holidays	- 73 -
5.7.1	Scheduled Holidays	- 73 -
5.7.2	Maximum Holiday Leave Accrual	- 74 -
5.7.3	Personal Holiday(s)	- 74 -

5.8	Leave of Absence Without Pay	- 74 -
5.9	Military Leave	- 76 -
5.9.1	Paid Military Leave	- 76 -
5.9.2	Reemployment Rights	- 76 -
5.10	Jury Duty Leave	- 79 -
5.11	Healthy Challenge Pay and Leave Accrual	- 79 -
5.12	Blood Bank Donation Leave	- 79 -
5.13	Time off for Promotional Examinations and Interviews	- 79 -
5.14	Time Off to Vote	- 79 -
5.15	Pregnancy Leave	- 80 -
5.16	Voluntary Leave Bank	- 80 -
5.16.1	Eligibility for Enrollment	- 80 -
5.16.2	Eligibility for Use of Voluntary Leave Bank Hours	- 80 -
5.17	Vacation Leave Donations	- 81 -
5.18	Vacation Leave Sell Back	- 82 -
5.19	Service Award Leave	- 82 -
6.	BENEFITS	- 83 -
6.1	Purpose and Introduction	- 83 -
6.2	General Benefits Information	- 83 -
6.3	Medical Benefits for Active Employees	- 83 -
6.3.1	General Employee Group Medical Plan	- 83 -
6.3.2	Health Savings Account	- 84 -
6.4	Flexible Spending Accounts for Active Employees	- 84 -
6.5	Dental Insurance for Active Employees	- 85 -
6.6	Life Insurance for Active Employees	- 85 -
6.7	Employee Assistance Program (EAP) for Active Employees	- 85 -
6.8	Critical Incident Stress Management (CISM) for Active Employees	- 85 -
6.9	Wellness Services Program for Active Employees	- 85 -
6.9.1	Participation Guidelines	- 85 -
6.10	Disability Insurance for Active Employees	- 86 -

6.11	Deferred Compensation Plan for Active Employees	- 86 -
6.12	Other Voluntary Benefits for Active Employees	- 87 -
6.13	Benefits Effective Date	- 87 -
6.14	Electing and Changing Benefits	- 87 -
6.15	Proof of Dependent Eligibility	- 88 -
6.16	Benefits after Employment Termination	- 88 -
6.16.1	Medical Insurance after Termination	- 88 -
6.16.2	Dental Insurance after Termination	- 89 -
6.16.3	Continuing Coverage after Termination under COBRA	- 89 -
6.16.4	Life Insurance after Termination	- 89 -
6.16.5	Deferred Compensation Plan after Termination	- 90 -
6.16.6	Flexible Spending Accounts after Termination	- 90 -
6.16.7	Voluntary Insurance and Benefits after Termination	- 91 -
6.16.8	Wellness Services Program for Retirees	- 91 -
7.	PERFORMANCE MANAGEMENT	- 92 -
7.1	Purpose and Introduction	- 92 -
7.2	Performance Appraisal	- 92 -
7.3	Performance Management Cycle	- 93 -
7.4	Transition from Probationary Review to Common Performance Review Schedule	- 93 -
7.5	Performance Pay Increases	- 94 -
8.	EMPLOYEE DEVELOPMENT, INCENTIVES AND TRAINING	- 95 -
8.1	Purpose and Introduction	- 95 -
8.2	Education Reimbursement Policy	- 95 -
8.2.1	Continuation of Employment and Reimbursement Payback Provision	- 96 -
8.2.2	Eligibility Requirements for Education Reimbursement Program	- 96 -
8.2.3	Administration, Payments and Maximum Reimbursement	- 98 -
8.2.4	Education Reimbursement Appeals	- 98 -
8.3	Annual Employee Service Awards	- 98 -
8.3.1	Eligibility	- 98 -
8.3.2	Presentation	- 99 -
9.	OCCUPATIONAL HEALTH & SAFETY PROGRAM	- 100 -
9.1	Program Purpose and Introduction	- 100 -
9.1.1	Role of Occupational Health & Safety Division, Human Resources	- 100 -
9.1.2	Role of Department Director	- 100 -

9.1.3	Department Safety Coordinator Responsibilities	- 101 -
9.1.4	Authority of Department Safety Coordinators	- 101 -
9.1.5	Role of Supervisors and Managers	- 102 -
9.1.6	Role and Responsibilities of Employees	- 103 -
9.2	Occupational Health and Safety Rules, Regulations and Requirements	- 104 -
9.2.1	Occupational Health and Safety Regulations	- 104 -
9.2.2	Occupational Health, Safety and Accident Prevention Program	- 105 -
9.2.3	Requirements Related to Illnesses and Communicable Diseases	- 105 -
10.	OCCUPATIONAL INJURY BENEFITS PROGRAM	- 107 -
10.1	Purpose	- 107 -
10.2	Duties, Responsibilities, and Authority within the Occupational Injury Benefits Program	- 107 -
10.2.1	Role of Occupational Health & Safety Division	- 107 -
10.2.2	Role of Department Director	- 107 -
10.2.3	Role of Workers' Compensation Coordinator (WCC)	- 108 -
10.2.4	Authority of Workers' Compensation Coordinators	- 109 -
10.2.5	Role of Supervisors and Managers	- 109 -
10.2.6	Employees' Rights and Responsibilities	- 110 -
10.3	Disability Supplement Pay (DSP)	- 113 -
10.4	Time and Attendance Rules for Workers' Compensation Employees	- 115 -
10.4.1	Day of Injury	- 115 -
10.4.2	Lost Time	- 115 -
10.4.3	Limited Duty for a Compensable Injury	- 116 -
10.4.4	Workers' Compensation Leave (WCL)	- 116 -
10.4.5	Maximum Medical Improvement (MMI)	- 117 -
10.5	Workers' Compensation Control Group	- 118 -
10.6	Medical Benefits	- 118 -
10.7	Dispute Resolution	- 118 -
10.8	Noncompliance	- 119 -
11.	RETURN-TO-WORK PROGRAM	- 120 -
11.1	Purpose and Introduction	- 120 -
11.2	Role of Department Return-To-Work (RTW) Coordinator	- 120 -
11.3	RTW Program for Occupational Injuries	- 121 -
11.3.1	Applicability	- 121 -
11.3.2	Employee Duties and Responsibilities	- 121 -
11.3.3	Occupational Injury Return To Work ("RTW") Rules	- 121 -
11.3.4	Medical Examinations; Designated Doctor Examinations	- 123 -
11.3.5	Compliance	- 123 -

11.4	RTW Program for Non-occupational Injuries, Illnesses and Disabilities	- 123 -
11.4.1	Applicability	- 123 -
11.4.2	Employee Duties and Responsibilities	- 124 -
11.4.3	Non-occupational Injury/Illness Return To Work (“RTW”) Rules	- 124 -
11.4.4	Independent Medical Examinations (IME)	- 126 -
11.5	Inability to Perform Essential Job Functions; Employment Options	- 127 -
11.5.1	Applicability	- 127 -
11.5.2	Ability to Perform Essential Job Functions	- 127 -
11.5.3	Employment Options	- 128 -
12.	TEMPORARY, SEASONAL AND PART-TIME POSITIONS	- 129 -
12.1	Purpose and Introduction	- 129 -
12.2	Use of Limited Time/Duration Positions	- 129 -
12.3	Duration of Positions and Information Related to Retirement Fund Participation	- 129 -
12.3.1	Regular Employees, Full-Time Employees	- 130 -
12.3.2	Part-Time Employees	- 130 -
12.3.3	Temporary Employees	- 131 -
12.3.4	Seasonal Employees	- 131 -
12.3.5	Evaluation for Conversion	- 132 -
12.4	Direct Recruitment and On-Site Hiring	- 132 -
12.4.1	Minimum Qualifications	- 132 -
12.4.2	Requirements for Hiring Retired Employees to Work in Limited Time/Duration Positions	- 132 -
12.5	Limits to Benefits for Seasonal or Temporary Positions	- 133 -
12.6	Eligibility to Apply for Internal-Only Positions	- 133 -
12.6.1	Anniversary Date	- 133 -
12.7	Temporary/Seasonal Pay Plan	- 133 -
12.8	No Paid Holidays	- 134 -
12.9	Council Aides	- 134 -
12.9.1	Council Aide Compensation and Benefits	- 135 -
13.	EMPLOYEE CONDUCT	- 137 -
13.1	Purpose and Introduction	- 137 -
13.1.1	Employee Responsibilities	- 137 -
13.1.2	Management and Supervisory Responsibilities	- 137 -
13.2	Conduct Warranting Disciplinary Action	- 138 -
13.3	Ethical Standards of Conduct	- 139 -
13.3.1	Reporting Illegal or Unethical Conduct	- 141 -
13.3.2	Prohibition of Seeking or Accepting Gifts	- 141 -

13.4	Absenteeism	- 143 -
13.5	Disciplinary Action	- 144 -
13.5.1	Role of the Supervisor	- 144 -
13.5.2	Steps in Taking Discipline	- 145 -
13.5.3	Documentation	- 147 -
13.5.4	Disciplinary Action Types	- 147 -
13.5.5	Pre-Termination, Pre-Demotion and Suspension Procedures	- 151 -
13.6	Employee Assistance Program (EAP)	- 153 -
13.7	Drug-and Alcohol-Free Workplace	- 154 -
13.7.1	Drug and Alcohol Testing	- 154 -
13.7.2	Drug and Alcohol Prohibitions	- 156 -
13.7.3	Job Applicant Testing	- 156 -
13.7.4	Criteria for Employee Testing	- 156 -
13.7.5	Drug and Alcohol Violations	- 158 -
13.7.6	Forms and Instructions	- 160 -
13.7.7	Discipline for Drug and Alcohol Policy Violations	- 160 -
13.7.8	Commercial Vehicle	- 162 -
13.7.9	DOT Positions	- 162 -
13.7.10	Medicines on the Job	- 162 -
13.7.11	Legitimate Use of Prescriptions or Over-the-Counter Drugs	- 163 -
13.7.12	Use of Controlled Substances that are Prescribed to a Person Other Than the User	- 163 -
13.7.13	Suspicious Substances	- 163 -
13.7.14	Treatment for Alcohol or Prescription Drug Abuse	- 164 -
13.7.15	Employee Drug or Alcohol Treatment	- 164 -
13.7.16	Self-Referral Managed by Employee Assistance Program	- 165 -
13.7.17	Non-City-Sponsored Rehabilitation Program Participation	- 165 -
13.7.18	Confidentiality, Records and Retention	- 166 -
13.7.19	Drug and Alcohol Education	- 166 -
13.8	Discrimination and Retaliation	- 166 -
13.9	Harassment-Free Workplace	- 167 -
13.9.1	Sexual Harassment	- 167 -
13.9.2	Harassment Based on Protected Status	- 168 -
13.10	Inappropriate Conduct	- 168 -
13.11	Violence in the Workplace	- 169 -
13.12	Notification of Arrest for Certain Offenses	- 170 -
13.13	Criminal Convictions	- 170 -
13.14	Firearms at the Workplace	- 171 -
13.15	Pepper Spray, Mace and Knives	- 171 -
13.16	Theft and/or Misuse of City Property	- 171 -
13.17	Vehicle Neglect and Abuse	- 171 -

13.18	Solicitations	- 172 -
13.19	Recordings and Pictures	- 172 -
13.20	Personal Social Media Usage	- 172 -
14.	COMPLAINT RESOLUTION	- 174 -
14.1	Purpose and Introduction	- 174 -
14.2	Complaints of Unfair Treatment	- 175 -
14.3	Discrimination, Retaliation, Harassment Complaints	- 176 -
14.4	Whistleblower Complaints	- 179 -
14.5	Grievances and Appeals	- 180 -
14.5.1	Deadlines and Extensions	- 181 -
14.5.2	Grievances	- 182 -
14.5.3	Appeals	- 183 -
14.5.4	Reinstatement and Backpay	- 189 -
14.6	Reasonable Accommodation Review and Resolution for Persons with Disabilities	- 189 -
14.7	Employee Representation	- 190 -
15.	GLOSSARY	- 191 -

1. Hiring

1.1 Purpose and Introduction

The purpose of this chapter is to describe how the City of Fort Worth provides employment opportunities for those persons who are interested in and qualified to work for the City. The City seeks to hire and retain competent employees who are honest, technically competent, show respect for fellow members of the City team, and who recognize the responsibility that public employees have to our customers.

For questions about this chapter, please call the Staffing Services Manager in the Human Resources Department.

1.2 General Hiring Guidelines

The City posts available jobs on the City's official website. Job applications and other official paper or electronic forms that are used in the selection process are provided by the Human Resource Department and on the Internet. The City uses valid, job-related selection procedures and methods to hire employees on the basis of their qualifications and suitability for employment. Employment decisions are based on job-related factors, including the candidate's suitability and qualifications as those traits are related to the essential functions of the job.

1.3 Equal Opportunity

City recruitment is inclusive so that all individuals have an equal opportunity for employment. All artificial, arbitrary, and non-job-related barriers to employment such as race, color, national origin, sex, pregnancy, transgender, gender identity, gender expression, religious affiliation, political affiliation or belief, age (over 40), sexual orientation, genetic information, veteran status, and disability status (including contagious diseases such as tuberculosis in the non-contagious state and HIV) are eliminated to ensure equal access to employment. This policy is practiced in all personnel actions and conditions of employment, including, but not limited to: recruitment, employment, training, promotion, transfer, demotion, termination, layoff, discipline, compensation, and benefits.

1.4 Employment Verification

The information that job candidates provide on employment applications and résumés is subject to verification. Individuals who falsify or omit significant information may be

disqualified from consideration for the position or, if a hired employee, they can be disciplined, up to and including termination.

1.4.1 Employment Verification and References

Employees should not release information about current or former employees without proper authorization from the Staffing Services Division of the Human Resources Department. Information given in response to requests from outside employers or businesses to verify employment is limited to an employee's hire date, job title and salary range. External requests for employment information should be directed to the City's automated Job Verification system. Additional information will only be given with a signed release from the employee.

Prior to making a job offer, the employee who has final hiring authority in the selection process (or a designee) is required to contact previous employers to verify the applicant's employment history and conduct reference checks with any personal references or supervisors provided by the applicant.

When hiring former employees or promoting employees from other City departments, the hiring supervisor is required to review the employee's personnel file and contact either current or past supervisors for information on past performance or disciplinary issues, prior to making an offer of employment.

Supervisors who provide reference information must provide only factual information that can be documented and avoid allowing personal perceptions of the applicant to be communicated.

1.4.2 Verification of Education/Certification/License Qualifications

It is the applicant's responsibility to submit required documents such as high school or GED diplomas, college degrees, transcripts, certifications and licenses. Failure by the applicant to comply with requests for documents may cease the hiring process.

The Department director or designee is responsible for ensuring that required qualification verification documents are submitted and sent to the Human Resources Department's Records Section. Failure to submit the required verification documents may affect the hiring status of the applicant.

1.5 Minimum Employment Age

The City employs persons 16 to 18 years old in non-hazardous positions only. Occupations declared to be hazardous to persons between 16 and 18 years of age by the Department of Labor include motor vehicle driver, outside helper, (contact Law Department for definition) operators of power-driven machines, and power-driven hoisting equipment, chain saws, circular saws and guillotine shears, and roofing and excavation labor.

The City follows all federal and state child labor laws. Persons under age 16 will not be employed by the City, except for special programs approved by the City Manager and the City's Department of Law.

Job candidates age 16 to 18 must provide a copy of their birth certificate or other appropriate official record to verify their age. The birth certificate or official record must be provided at the time of application and retained in the person's personnel file.

1.6 Eligibility to Work in the USA

Individuals who are seeking employment with the City must provide documentation showing that they are a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien authorized to be employed in the United States.

New hires must complete Form I-9, *Employment Eligibility Verification*, during orientation. Form I-9 requires that original documents establishing identity and employment eligibility to be shown at the time employees complete their new hire paperwork. Form I-9 lists acceptable documents for establishing eligibility to work in the United States on the back of the form.

Federal law requires that new hires who fail to provide acceptable documents at orientation or within three days of their hire date cannot be employed or must be terminated if hired.

1.7 Driver's License Verification and Record Check

Employees who operate City or personal vehicles while performing their duties must possess an appropriate and valid Texas Driver's License and the minimum liability insurance required by Texas law. Individuals hired who do not possess an appropriate and valid Texas Driver's License must obtain one within 30 days after being hired.

Employees are not permitted to operate City or personal vehicles in the performance of their duties if they have:

- A DWI or DUI conviction or three moving violations (including red light camera violations, which are counted as moving violations for City disciplinary purposes. See HR Advisory: *Red Light Camera Violations Processing* for further information.) in the preceding 24-month period (City and personal vehicles). Red light cameras identify vehicles, but usually do not identify drivers. Therefore, if a red light camera violation is used to disqualify an employee from driving, the supervisor must gather enough facts to support a reasonable conclusion that the employee was actually driving the vehicle that caused the violation.
- Lost their Texas driving privileges by reason of revocation, suspension, withdrawal or denial of license to drive.
- As determined by an Accident Review Board, three chargeable vehicle accidents or any combination of chargeable accidents or violations of this

policy totaling four (4) within any consecutive 24-month period (After each review of a chargeable vehicular accident, the Accident Review Board may decide whether or not an employee should be permitted to continue to operate a city vehicle.)

The Human Resources Department conducts a driver's license check on all applicants with driver's licenses selected for employment with the City. If the check reveals a violation of this policy, appropriate action is taken by the employee's Department director or designee. Periodic driver's record checks will be conducted to verify employees' compliance with this policy. (See HR Advisory: *Driver's License Checks, Driving Privileges and Clearing an Employee's Driver's License Record due to a Suspended or Revoked License.*)

The Director of Human Resources may waive the requirements of this policy if a waiver is considered to be in the best interest of the City. Department directors must submit a written request to the Director of Human Resources for a waiver of this requirement.

1.8 Criminal Records Check

A criminal records check is conducted by the Human Resources Department on candidates who are likely to be extended a job offer. If the background check reveals a criminal history that conflicts with the information that was provided by the employee or candidate, the employee or candidate may be given five (5) business days from notice of the discrepancy to respond to issues related to the criminal record check. Confirmed falsification or omission of information about criminal history will result in removal from consideration for the position or, if a current employee, possible termination.

The following factors will be considered in any decision to disqualify or terminate an individual based upon their criminal background:

- The nature of conviction(s) as it relates to the position sought.
- Age of the conviction(s).
- Number of conviction(s).
- Indication of rehabilitation or lack of rehabilitation.
- Potential liability if the individual is retained or not retained.

A criminal records check should be conducted on all potential new hires, temporary workers, volunteer workers, interns, and contract workers. If an outside agency has already conducted a criminal records check on its employees who are contracted to work for the City, a criminal records check must still be conducted by the Human Resources Department unless a contract or agreement states otherwise.

Employees of departments, except for Police, should not conduct criminal background checks without approval of Human Resources Staffing Services.

1.9 Employment Testing

The Human Resources Department establishes examinations and selection procedures. The examinations and selection procedures must be based on federal guidelines or approved professional test practices. Departments may not develop or administer examinations without the review and approval of the Human Resources Director or designee. The Human Resources Department establishes the test and retest policies and procedures for each test used by a City department.

If an examination administrator must repeatedly warn a candidate of suspected cheating or inappropriate disruptive behavior, the candidate's application is removed from the hiring process, the candidate is not hired, receives a failing score, and must wait three years before taking another examination.

1.10 Hiring Below Entry Level Salary Rate

In limited situations, Directors may hire or promote employees who do not meet minimum qualifications at a pay rate that is below the entry level of a position's salary range. This can be done in lieu of a "trainee" position or when qualified individuals cannot be hired or promoted. To do so requires approval by the Human Resources Director.

Employees who are hired below the entry level of a salary range remain at that rate until acquiring the qualifications necessary to meet the minimum qualifications for the classification. These employees are eligible for cost-of-living and merit-pay increases, provided that the increases do not put them at or above the entry-salary level.

1.11 Hiring Salary

New employees are hired at the beginning of the position's salary range unless a higher rate of pay is necessary or justifiable. (See the *Compensation and Personnel Actions* in Chapter 2 of this manual for further information about starting pay.)

1.12 On-Site Hiring

A Department director may establish a policy for filling regular positions on-site when recruitment efforts have not been productive, the positions being filled have limited minimum requirements, the positions experience high turnover or other situations that justify on-site hiring. To do so requires approval from the Human Resources Director.

1.13 Overfilling Positions for Training Purposes

The City allows Department directors to overfill a position with a new employee or newly promoted employee to receive training or knowledge transfer from the incumbent. Subject to budget limitations, a Department director can overfill positions for the purposes of

providing such training on the job. Such positions can be overfilled for a maximum of six months, after which approval from the Finance Director is needed to continue the training.

1.14 New Employee Orientation

All newly hired employees must attend a City orientation session before starting work at their assigned location. In addition, rehired, reemployed and reinstated employees, as well as individuals moving from a temporary/seasonal status to a regular employee status, must attend an orientation session.

Basic employee policies are discussed at the orientation. Employee benefits, including but not limited to retirement, leave privileges, and group health benefits are covered. An Employee Identification Badge is issued during orientation. The employee's eligibility to work in the USA is checked. (See *Eligibility to Work in the USA* above for further information.)

An authorized member of the hiring department must notify employees where to report for work after the orientation.

1.15 Direct Deposit or Alternative Payment Method

Employees set up a payment method when completing new-hire paperwork, and they will be allowed to change the payment method by contacting the payroll division. The vast majority of City employees are paid by directly depositing funds into their individual bank accounts. For employees who do not have bank accounts, the Payroll Division will assist them in setting up an alternative method of payment, such as a debit card or pay card. Debit cards or pay cards sometimes incur transaction fees, and the City is not responsible for those fees.

1.16 Reemployment

Reemployment hiring rules vary depending upon the terms under which the employee separated from employment. See *Voluntary Termination* and *Involuntary Termination* in Chapter 4 for more information. Also see *Reemployment Salary and Benefits* in Chapter 4 for further information about how reemployment affects salary and benefits.

2. Compensation and Personnel Actions

2.1 Purpose and Introduction

The purpose of this chapter is to ensure the City's compliance with the Fair Labor Standards Act (FLSA); to demonstrate efforts to attract and retain qualified candidates and employees; to provide a level of compensation that is equitable and will motivate employees to do their best work; and to communicate the City's basic compensation and personnel action procedures.

It is the policy of the City of Fort Worth to accurately compensate employees in compliance with all applicable state and federal laws. To ensure that employees are properly paid for all time worked and so that no improper deductions are made, employees must correctly report all work time and review their pay advice to identify any errors.

City employee pay is established in the Salary Schedules approved by the City Council during the annual budget implementation. Personnel actions are changes to an employee's status or pay. Personnel actions are typically implemented using a Personnel Action Request (PAR) form sent by departments to the appropriate Human Resources Department division. See the HR Advisory: *Personnel Action Requests* for more information regarding PARs.

Many of the sections in this chapter are specific to either "exempt" or "nonexempt" employees. These designations relate to application of the Fair Labor Standards Act to the relevant employee's position/pay. In order to determine whether you are working in an exempt or nonexempt position, contact your Human Resources Coordinator in your department or refer to your status in PeopleSoft.

Questions regarding this chapter should be directed to the Human Resources Classification and Compensation Manager.

2.2 Nonexempt Employees' Pay Plan

2.2.1 Base Pay for Nonexempt Employees

Nonexempt employees are compensated using the Nonexempt Pay Plan with pay range references. Movement through the salary ranges is contingent upon an employee's performance evaluation and subject to the compensation plan approved

by the City Council in the relevant annual budget. An employee is eligible for a pay increase at the beginning of the pay period in which the employee's anniversary date occurs.

2.2.2 Personnel Actions and Nonexempt Employee Pay

2.2.2.1 Starting Pay for Nonexempt Employees

The pay rate for new nonexempt employees is set at the entry level, or salary range minimum, for the classification occupied by the employee. Department directors may hire a new employee at a higher rate, up to and including the midpoint of the salary range, based on qualifications beyond the minimum for the classification. Placement of a new employee above the salary range midpoint requires the approval of the Human Resources Director or designee.

2.2.2.2 Promotion for Nonexempt Employees

The pay rate for a nonexempt employee after a promotion will be one of the following: at the new entry salary range minimum; or at least a five percent and no more than a ten percent pay increase if within the salary range for the new position; or at a higher rate if the promotion occurs following competitive recruitment in which the employee competed.

A Department director, on a case-by-case basis, may increase the pay rate for a current employee up to the salary range midpoint if the employee was selected through a competitive recruitment process. Examples of competitive recruitment include: newspaper ads, Internet advertising, job fairs, and national journal advertising, in the market in which the City competes for employees for that job. The Human Resources Department, in conjunction with the hiring departmental hiring authority, will decide the appropriate market and the appropriate recruitment activities. If a current employee is selected after open competitive recruitment for the position, the Department director may promote the employee up to the salary range midpoint, to reflect the market value, job conditions and the employee's qualifications. This applies equally to employees whose current classification is the same or higher than the position they are applying for; however, it does not apply if the selection of the employee results in only a transfer between positions within the department. If the employee is already earning a salary above the salary range midpoint of the new pay grade, the employee can receive up to a ten percent increase in pay. Department directors must conduct equity evaluations of the salaries of similarly situated employees before hiring or promoting someone at a higher than normal rate.

2.2.2.3 Reclassification of Nonexempt Employees

If a reclassification of a nonexempt employee results in a promotion, a nonexempt employee's pay rate is increased five percent to ten percent. If the reclassification results in a transfer or demotion, the pay rate does not change, unless the employee's previous pay rate exceeds the top of the salary range of the new classification, in which case the pay is reduced to the top of the new salary range.

A nonexempt employee promoted or reclassified to an exempt position must serve a six-month probationary period. Upon successful completion of the probationary period, the employee's anniversary date, for purposes of the performance evaluation schedule, changes to October 1st, consistent with exempt employees.

The effective date of a reclassification and any changes in pay is the beginning of the pay period following approval of the request by the Human Resources Department. See HR Compensation and Classification webpage (<http://www.cfwnet.org/hr/classandcomp.html>) for more information.

2.2.2.4 Transfer and Lateral Transfer for Nonexempt Employees

The pay rate after a transfer or lateral transfer does not change for nonexempt employees.

2.2.2.5 Demotion for Nonexempt Employees

In most cases, a demotion will result in a salary decrease. The pay rate for nonexempt employees after a demotion is determined based on the reasons for the demotion.

Disciplinary demotions result in a five percent or greater reduction in pay. Reductions in pay of greater than five percent may be appropriate in some circumstances and will be considered on a case-by-case basis by the Department director or designee, consistent with how similarly-situated employees have been treated. The Human Resources Director or designee should be consulted for guidance in these circumstances.

Performance-based and voluntary demotions into the formerly held position within the first year after a promotion will result in a reduction equal to the increase received at the time of promotion plus any non-merit raises applicable to others within that same classification since the date of the promotion.

Performance-based and voluntary demotions of an employee into a formerly held position, which occur outside of the first year after a

promotion, will result in pay equal to the employee's former salary or pay rate plus any additional non-merit raises applicable to others within that same classification since the date of the promotion.

Performance-based and voluntary demotions to a position the employee did not hold immediately prior to the promotion will result in at least a 5 percent reduction in pay. If a Department director does not think it is appropriate to reduce the employee's pay by five percent, the Department director or designee must consult with the Human Resources Director or designee to determine the appropriate compensation.

Sometimes it is inappropriate to use salary ranges as the sole determinant of whether a job change is a demotion. For example, transfers from the trades career track into the clerical track may result in more responsibility, but the salary range may be lower because of the market for the clerical job. The Human Resources Department will provide an evaluation of the reasons for the demotion and the differences in the salary ranges and job responsibilities so an appropriate salary rate can be determined.

When an exempt employee is demoted into a nonexempt position and when a nonexempt employee is demoted into an exempt position, the resulting salary must constitute at least a five percent pay reduction.

An employee's salary following a demotion may not exceed their immediate supervisor's salary and may not exceed the top of the salary range.

2.2.2.6 Reemployment of Nonexempt Employees

Reemployment occurs after a separation from City service that has not exceeded one year. The Department director sets the starting pay rate for reemployment into the same classification, or one with a lower salary grade within the same classification series, but it cannot exceed the employee's pay rate when the employee left the City. See *Reemployment Salary and Benefits for Laid-off Employees* in Chapter 4 for more information about reemployment.

2.3 Exempt Employees' Performance Pay Plan

2.3.1 Pay Grades for Exempt Employees

Exempt employees are compensated using a performance pay plan that is composed of a series of pay grades. Exempt employee pay grades are open salary ranges with a starting and ending pay. An exempt employee's pay can be any amount within the salary range. An exempt employee's pay cannot exceed the top of the salary range for the pay grade.

2.3.2 Personnel Actions and Exempt Employee Pay

2.3.2.1 Starting Pay for Exempt Employees

The starting pay rate for new employees is typically at the entry level for the employee's job classification. Department directors may decide to compensate a new employee at a higher rate up to the maximum rate for the salary range midpoint, based on qualifications beyond the minimum qualifications listed on the class specification. If the candidate is currently earning a salary that is in the second quintile, the Department director can increase the salary up to ten percent. Department directors must conduct equity evaluations of the salaries of similarly situated employees before hiring a candidate at a salary rate higher than the entry rate.

2.3.2.2 Promotion of Exempt Employees

The pay rate for an exempt employee after a promotion is to a salary rate in the new pay grade that is five to ten percent higher in pay, unless movement to the entry level salary range provides an increase greater than ten percent, or unless the promotion occurs following competitive recruitment in which the employee competed.

A Department director, on a case-by-case basis, may increase the pay rate for existing employees who are promoted up to the salary range midpoint if the employee was selected through a competitive recruitment process. Examples of competitive recruitment include: newspaper ads, Internet advertising, job fairs, and national journal advertising in the market in which the City competes for employees. The departmental hiring authority and the Human Resources Department decide the appropriate market and the appropriate recruitment activities.

The employee can be promoted under this policy even if the employee's pay grade before their promotion is the same or higher than the pay grade of the job classification for which the employee is being selected. This policy does not apply if the selection of the employee results in only a transfer between positions within the department in which case, refer to *Transfers and Lateral Transfers of Exempt Employees* below. If the employee is already earning a salary above the salary range midpoint, the employee can receive up to a ten percent increase in pay. Department directors must conduct equity evaluations of the salaries of similarly situated employees before hiring or promoting someone at a higher than normal rate.

2.3.2.3 Reclassification of Exempt Employees

If a reclassification of an employee results in a promotion, the pay rate is increased five percent to ten percent. If the reclassification results in a transfer or demotion, the pay rate does not change, unless the employee's pay rate exceeds the top of the range of the new classification, in which case the pay is reduced to the top of the new range.

The reclassification effective date and any changes in pay will be the beginning of the next pay period following approval of the reclassification by the Human Resources Department. See HR Compensation and Classification website (<http://www.cfwnet.org/hr/classandcomp.html>) for more information.

2.3.2.4 Transfers and Lateral Transfers of Exempt Employees

The pay rate after a transfer or lateral transfer of an exempt employee to another position will not change. See the *Glossary* for definitions of “transfer” and “lateral transfer.”

2.3.2.5 Demotion of Exempt Employees

In most cases, a demotion will result in a salary decrease. The pay rate for exempt employees after a demotion is determined based on the reasons for the demotion.

Disciplinary demotions result in a five percent or greater reduction in pay. Reductions in pay of greater than five percent may be appropriate in some circumstances and will be considered on a case-by-case basis by the Department director or designee, consistent with how similarly-situated employees have been treated. The Human Resources Director or designee should be consulted for guidance in these circumstances.

Performance-based and voluntary demotions into the formerly held position within the first year after a promotion will result in a reduction equal to the increase received at the time of promotion plus any non-merit raises applicable to others within that same classification since the date of the promotion.

Performance-based and voluntary demotions of an employee into a formerly held position, which occur outside of the first year after a promotion, will result in pay equal to the employee's former salary or pay rate plus any additional non-merit raises applicable to others within that same classification since the date of the promotion.

Performance-based and voluntary demotions to a position the employee did not hold immediately prior to the promotion will result in at least a 5 percent reduction in pay. If a Department director does not think it is

appropriate to reduce the employee's pay by five percent, the Department director or designee must consult with the Human Resources Director or designee to determine the appropriate compensation.

Sometimes it is inappropriate to use salary ranges as the sole determinant of whether a job change is a demotion. Transfers from one career track into another track may result in more responsibility, but the salary range may be lower because of the market for the job. Consultation with the Human Resources Department will provide for an evaluation of the reasons for the demotion and the differences in the salary ranges and job responsibilities, so an appropriate salary rate can be determined. An employee's salary may not exceed the top of the salary range for his or her classification. An employee cannot move into a new classification and remain at a salary above the range maximum.

When an exempt employee is demoted into a nonexempt position and when a nonexempt employee is demoted into an exempt position, the resulting salary must constitute at least a five percent pay reduction.

2.3.2.6 Reemployment of Exempt Employees

Reemployment occurs after a separation from City service which has not exceeded one year. The Department director sets the starting pay rate for reemployment into the same class, or one with a lower salary grade within the same classification series, but it cannot exceed the employee's pay rate when the employee left the City. See *Reemployment Salary and Benefits for Laid-off Employees* in Chapter 4 for more information about reemployment.

2.4 Exceptions to the General Guidelines for Employee Pay

With the approval of the Human Resources Director, performance pay, special merit pay, the pay for a promotion or reclassification, or any other type of pay increase may be less than the recommended standard pay increase for those types of changes. Factors such as internal pay equity, budget issues, work performance, minor changes in the work performed, advertised salary amount or other valid reasons may justify less than normal or no pay increase for an employee.

2.5 Fair Labor Standards Act (FLSA)

This federal law establishes "standards" for minimum wages, maximum hours, overtime pay, record keeping and child labor. All employees at every level in the City are responsible for compliance with the FLSA, as amended. The Human Resources Department is

responsible for the administration and interpretation of the FLSA, with input from the Legal Department. These responsibilities include: determining the existence of an employer-employee relationship; determining an employee's exempt or nonexempt status under the FLSA; interpreting and applying minimum wage, work time, coded hours, overtime, work schedules, special residency agreements, and other FLSA provisions such as child labor standards.

The Human Resources and Law Departments are responsible for negotiations and serve as the liaison with the Wage and Hour Division of the U.S. Department of Labor, on FLSA matters affecting employees.

Department directors are responsible for ensuring that employees adhere to and comply with established work schedules. Employees must obtain proper authorization prior to working outside their established work schedules. Employees who fail to obtain authorization to perform work that is in addition to their established work schedules may be disciplined for failure to obtain authorization, but must nevertheless be compensated for all the time they worked.

Work time (hours worked) must be recorded exactly as it is worked. The dates worked and the number of hours recorded as being worked each day must accurately reflect what actually occurred. Employees who fail to accurately record all time worked or who falsify time records are subject to disciplinary action, up to and including termination.

The City operates in accordance with its compensation policy and in compliance with the FLSA, as amended. All employees are encouraged to ask questions about their status as exempt or nonexempt employees and rights under the FLSA. Questions should be directed to the employees' departmental staff person(s) who handles payroll matters. The Human Resources Department Classification and Compensation Manager may also be consulted on such matters.

The FLSA prohibits retaliation against an employee for filing a complaint, cooperating in an investigation and/or initiating any proceeding under or related to the FLSA.

2.5.1 Travel Time

Generally, travel from home to work and from work to home shall not be considered work time and is not compensable, even if the employee is driving a city vehicle. Time spent by an employee in travel as part of his/her normal work assignments will be considered work time and must be documented on time sheets as such.

Time spent traveling to out-of-town training or work-related meetings is compensable if it occurs during an employee's regularly scheduled work hours (including time spent traveling on days on which the employee would not normally work).

Travel time that occurs outside of an employee's regularly scheduled work hours may or may not be compensable, depending on whether or not the employee is performing "work" while traveling. If the employee is, for instance, reviewing documents related to his or her job, it is compensable. If the employee is driving, it is compensable. If the employee is merely riding in a car or on a plane, and is not engaged in work for the City, it is not compensable.

When an employee has the option of flying or driving and chooses to drive, based on the employee's preference rather than cost or other considerations, compensation will only be for the amount of time that would have been spent flying, including the time spent driving to and from the airport, parking, and checking baggage, and the time elapsing between the check-in deadline and actual boarding.

2.5.2 Training Time

Generally, employees are compensated for training time if the training is for the benefit of the employer (examples of such include: enhancing an employee's work-related skills; training on a new work-related computer system or software; attending a conference for professional development, etc.).

Exceptions to this rule include training attendance outside of regular working hours at specialized or follow-up training which is required by law for certification of the employee's professional or occupational credentials, does not necessarily constitute compensable hours of work. This is true even if the training is paid for by the City. Training time is additionally not compensable when the following factors are all met:

- Attendance is outside of the employees regular working hours,
- Attendance is voluntary,
- The program, lecture or meeting is not directly related to the employee's job, and
- The employee does not perform any productive work for the City during such attendance.

It is important to note that attendance is not considered to be "voluntary" if it is required by the employer or the employee is led to believe that the employee's present working conditions or the continuance of his or her employment would be adversely affected by nonattendance.

Some departments, depending upon their particular circumstances, may choose to compensate employees for travel or training time, even if they are not legally required to do so. Please contact the Human Resources Classification and Compensation Manager with questions regarding whether an employee's training time is compensable.

2.6 Overtime Pay/Compensatory Time

Federal regulations allow government jurisdictions to compensate nonexempt employees for overtime work with either overtime pay or compensatory time paid or credited at the rate of one-and-one-half times for all time worked in excess of 40 hours in a workweek. The City also credits exempt employees for hours worked in excess of 40 in a workweek by allowing them to accrue compensatory time on a one-hour-worked, one-hour-accrued basis. By policy, the City provides overtime compensation at a straight-time rate to nonexempt employees who are scheduled to work less than 40 hours per week but who work more than their scheduled hours, up to 40. Also by policy, the City provides compensatory time on a one-hour-for-each-hour-worked basis to exempt employees who are scheduled to work less than 40 hours per week but who work more than their scheduled hours, up to 40. For more information regarding overtime pay and compensatory time accrual for employees who are regularly scheduled to work less than 40 hours per week, please see the sections below titled *Nonexempt Employee Overtime Pay or Compensatory Time* and *Exempt Employee Overtime Pay or Compensatory Time*.

Employees must obtain supervisory approval prior to working overtime hours. Employees working unauthorized overtime will be compensated for the time, but may face disciplinary action.

Department directors or designees should limit overtime work in their departments to the extent possible. Supervisors can direct employees to flex their schedules in order to avoid accrual of overtime hours, but are prohibited from changing an employee's workweek in order to avoid overtime liability to the employee.

Opportunities to work overtime should be distributed as evenly as possible among qualified employees.

The employee or the designated employees (timekeepers) in each department must maintain accurate records which reflect an employee's actual hours worked. Employees who electronically enter their own work hours must record all hours worked. Hours must be recorded on paper or electronic timesheets to be compensated.

Employees returning to work on light-duty status are not allowed to work overtime until returned to full-duty status.

2.6.1 Nonexempt Employee Overtime Pay or Compensatory Time

Nonexempt employees are eligible to receive one and one-half times their regular hourly rate in overtime pay or compensatory time credited at the rate of one and one-half times for the overtime hours worked in a work week. The determination of whether to compensate the employee in overtime pay or compensatory time is made at the discretion of the department. Department directors are encouraged to establish written and consistent internal policies regarding when overtime work will be compensated in compensatory time versus when overtime will be paid out.

By policy, the City provides compensation at the regular rate to nonexempt employees who are scheduled to work less than 40 hours per week but who work more than their scheduled hours, up to 40. If a nonexempt employee works more than 40 hours in a workweek, he or she will accrue compensatory time at the rate of one and one-half hour per hour worked or overtime pay at the rate of one and one-half times his or her regular rate. Other portions of the above section regarding overtime pay and compensatory time for nonexempt employees apply to the hours worked over 40 by these employees.

Nonexempt employees may not accrue more than 120 hours of compensatory time. If a nonexempt employee works overtime hours that cause them to exceed the 120-hour compensatory time limit, all hours over 120 hours must be paid as overtime at the rate of one-and-one-half times the employee's regular rate of pay. For example, if a nonexempt employee works 44 hours in a week, four of those hours are "overtime" hours. If these hours are to be compensated with compensatory time, six hours would be added to the employee's compensatory balance. If the 120-hour limit is exceeded by the additional compensatory time, all compensatory time hours over 120 hours are paid at the employee's straight time rate (the four overtime hours have already been converted to six hours of compensatory time).

Generally, leave time used does not count as hours worked for the basis of calculating overtime eligibility. An exception to this rule is holiday leave which counts as hours worked. Only those hours actually worked (or treated under City policy as worked) in excess of 40 hours are compensated at the one-and-one-half overtime rate (either in pay or compensatory time).

Nonexempt employees whose employment with the City is terminated for any reason are paid for all accrued compensatory time.

2.6.2 Exempt Employee Overtime Pay or Compensatory Time

Exempt employees earn compensatory time for hours worked that are in excess of 40 in a workweek, including exempt, part-time general employees. Compensatory time for exempt employees accrues on a straight-time or one-for-one basis.

Also by policy, the City provides compensatory time to exempt employees who are scheduled to work less than 40 hours per week but who work more than their scheduled hours. If an exempt employee works more than their scheduled hours in a workweek, he or she will accrue compensatory time at the rate of one hour per hour worked over the scheduled hours. Other portions of the above section regarding overtime pay and compensatory time for exempt employees apply to the hours worked over 40 by these employees.

Exempt employees may not accrue more than 120 hours of compensatory time. Compensatory hours in excess of 120 hours are deleted on a weekly basis.

Exempt employees are paid for unused, accrued compensatory time when they voluntarily leave the City or retire. Exempt employees who are involuntarily terminated or resign in lieu of termination may be paid for accrued compensatory time at the discretion of the Department director in exchange for a release of claims. Please see section on *Employee Resignations* in Chapter 4 for further information.

2.6.3 Promotions and Demotions and Paying Out Compensatory Time

If a nonexempt employee moves to an exempt position, any unused compensatory time accumulated while the employee was nonexempt will be paid out at the nonexempt rate at the time of the move.

2.6.4 Mandatory Use of Compensatory Time

As a governmental entity, the City can use compensatory time by a governmental employer to control overtime cost by allowing employees to earn compensatory time during heavy work periods and then to use the compensatory time when the workload permits it. A supervisor may require a general employee to:

- Use accrued compensatory time, when appropriate, to reduce future overtime costs.
- Use compensatory time to be off for either partial or full days.
- Use compensatory time instead of vacation leave when requesting time off work.

If an employee has accrued the maximum vacation leave balance and already used the required number of vacation leave hours in a year to avoid losing vacation leave, requiring the use of compensatory time rather than vacation leave is appropriate. (See *Vacation Leave* section in Chapter 5 for further information.)

See HR Advisory: *Mandatory Use of Compensatory Time* for more information about the required use of compensatory time.

2.6.5 Overtime Pay and Federal Grants

For federal grants intended to supplement the City's overtime resources, the City must first meet its 40-hour obligation to the employee by paying regular pay and leave time without replacing that obligation with grant funds. This is the only instance where an employee can actually work less than 40 hours in a workweek and still earn overtime in the same week, though it may be paid at the straight-time rate. For example, if an employee works 32 hours of their regularly assigned shift, but uses sick leave for the remaining eight (which does not count for purposes of calculating overtime as "Hours Worked"), plus works 12 hours on a grant detail, the

employee receives 32 hours of regular pay, eight hours of sick pay (and the employee's sick leave balance would be reduced by eight hours) plus eight hours of straight-time overtime and four hours of overtime. The eight hours of straight-time overtime and four hours of regular overtime would be funded from the grant. See HR Advisory: Overtime Grants for additional information.

2.7 Special Pays

2.7.1 Holiday Pay, Holiday Premium Pay and Holiday Leave Accrual

2.7.1.1 Nonexempt Employee Holiday Pay, Holiday Premium Pay and Holiday Leave Accrual

Nonexempt employees who observe a paid holiday (do not work) are paid for up to eight hours on the City-observed holiday. Employees who are not regularly scheduled to work 40 hours in a workweek may not be entitled to the full eight hours of pay. The holiday pay hours are treated as hours worked for the purpose of calculating overtime and are paid at the employee's normal rate of pay. Holiday pay is based on the authorized position in the budget and may be prorated accordingly if the authorized position is less than a full-time equivalent (FTE).

Nonexempt employees who work on a holiday receive holiday pay for up to eight hours (depending on the authorized position in the budget), or may elect to accrue up to eight hours of holiday leave instead of receiving holiday pay for the same number of hours. These hours will count as hours worked for the purposes of calculating overtime. Additionally, a non-exempt employee who works on a holiday will receive holiday premium pay for all hours actually worked on that holiday. Non-exempt employees who work on the holiday will be paid holiday premium pay at one and one-half times their regular rate of pay. Holiday premium pay does not count as time worked. A nonexempt employee who works on a holiday and who accrues more than 40 additional hours which are treated as Hours Worked will receive holiday premium pay at a rate of one and one-half times their *regular rate of pay*. Work hours paid as holiday premium pay will not count as hours worked for the purpose of calculating eligibility for overtime during the workweek that includes the holiday. Total compensation for an employee who works on a holiday is never more than two and one-half times the normal or regular rate of pay, when both the holiday pay and holiday premium pay are taken into account.

2.7.1.2 Exempt Employee Holiday Pay and Holiday Leave Accrual

Exempt employees who observe a holiday are paid for up to eight hours on the holiday. These hours will count as hours worked for purposes of

determining whether the exempt employee is eligible to accrue compensatory time under the City's policies.

Holiday hours for employees will be prorated based on their standard hours as recorded on the job record in PeopleSoft. Exempt employees who are scheduled to work on a holiday receive holiday pay for the holiday and accrue holiday leave hours for the hours worked (up to eight hours) at their regular rate of pay. Exempt employees who are scheduled off on the holiday will accrue the holiday. Exempt employee scheduled off for the holiday will accrue the holiday and receive regular hours for all hours worked. The regular hours will be converted to compensatory time earned if 40 hours in the work week is exceeded.

2.7.1.3 Other Rules affecting Holiday Pay, Holiday Premium Pay and Holiday Leave Accrual

In connection with the holiday pay, holiday premium pay, and holiday leave accrual policies, the City recognizes holidays on the actual calendar day of the holiday. Please refer to the section titled Holidays in Chapter 5 for further information regarding City-observed Holidays. Holiday premium pay can only be earned for working on the actual City-observed holiday. Holiday leave accrual can only be earned by working on a City-observed holiday.

Only employees in positions designated as "regular" are eligible for paid holidays. Temporary, Seasonal and Part-Time employees are not eligible for paid holidays.

Employees may not use paid leave such as vacation, short-term sick/family, major medical, holiday, personal holiday or compensatory time on the holiday in order to accrue the holiday. Any leave scheduled on a holiday will not be deducted from an employee's leave balance. An employee will receive holiday pay instead of using leave time.

Employees on occupational injury leave or in a leave-without-pay status do not accrue the holiday or receive holiday pay.

When an employee's schedule includes a regular day off that falls on a holiday, the employee will accrue holiday leave hours for use at a later date.

Employees whose last day of work/date of termination is the day before an observed holiday do not receive pay for the holiday. New employees who begin employment on the day after an observed holiday do not receive pay for the holiday.

Unscheduled absences on the day before or after an observed holiday should be handled through the City's disciplinary process if there is a pattern of such absences or there is reason to believe that the unscheduled absence was intentional.

Maximum holiday leave accrual is limited to 128 hours, capped annually on December 31. Maximum payment upon termination or death is limited to payment for 128 holiday hours.

2.7.2 Shift Differential Pay

Eligible employees working a regular (fixed), temporary or additional shift in which more than 50 percent of its duration occurs between 4:00 p.m. and 12:00 midnight (second shift) receive shift differential pay at the rate of 50 cents per hour. Those working a shift in which the majority of its time occurs between 12:01 a.m. and 6 a.m. (third shift) receive 75 cents per hour. Those working a shift in which more than 50 percent of the time occurs between 6:00 a.m. and 4:00 p.m. (first shift) do not receive shift differential. Shift differential is paid only on an assigned *regular, additional or temporary shift* that falls within these established timeframes. If the shift worked qualifies the employee to receive shift-differential pay, it is paid on all hours worked in the shift. If a shift is evenly split between two of the shifts which qualify for shift differential pay, the lower shift differential rate is paid on all hours worked in the shift.

Employees who work beyond their shift to complete work or arrive early to work their normal schedule (which requires supervisory approval) may receive shift differential pay (if applicable) to be paid at their assigned regular or temporary shift's normal rate.

Shift-differential is not paid on Emergency Callback, Court or Non-Emergency Callback time.

Shift-differential pay is paid only for time actually worked during a *regular, additional or temporary shift*. Use of any leave (including compensatory time and accrued holiday leave) does not earn shift differential pay. Shift-differential is paid for hours worked based on the majority hours of the *regular, additional or temporary shift* even if an entire daily shift is not worked.

Shift-differential is paid, if applicable, when an employee works hours for which he or she accrues compensatory time in lieu of receiving overtime. Shift differential is not paid when compensatory time that was earned by working during hours that qualify for shift differential pay is used.

See HR Advisory: *Shift Differential* for examples of shift differential pay.

2.7.3 Incentive and Lump-Sum Awards

Department directors must submit proposals for incentive, bonus pay/award plans to the Human Resources Director for review and consideration prior to making any awards under such plans or allowing any work to be performed under them.

Incentive plans may be established for the following reasons:

- To recognize, encourage, and reward employees who provide a service or work on mission-critical projects (of a temporary nature) beyond the normal scope of their job or achieve results for their department that deserve a one-time monetary or other award.
- To address critical recruitment/retention problems.
- To provide opportunity for gain sharing (a system or program designed to monitor organizational or departmental performance and distribute a portion of the increased revenue or cost savings to those who contributed).
- To address other issues as appropriate.

Compensation may be provided in the form of a one-time sum of money; additional compensation for a limited, specified duration; leave time added to an employee's account; or an award such as a hat, T-shirt, certificate/plaque of recognition or any other award deemed appropriate and reasonable. Monetary awards will be treated as discretionary.

Department directors must submit proposals for incentive plans and lump sum awards to the Human Resources Director for review and consideration prior to any work being performed under the proposals or payments or awards being made. Proposed incentive or bonus pay/award plans must include the following information:

- Justification for the proposed plan; why is it necessary?
- Describe the service, project or achievement to be provided by covered employees and the benefit to be realized by the department/city.
- Describe the type of the compensation/award being considered.
- Describe the criteria utilized to determine which employees should be included in the plan or program.
- Explain how an employee becomes eligible or qualifies to receive the pay/award.
- Describe procedures, guidelines, and mechanisms to administer the plan ensuring equity, fairness and safeguards against its misuse.
- Identify the expected duration of the plan.

Employees receiving compensation under an approved plan must be directly responsible or in control of outcomes; no one should be a passive recipient of other employees' efforts. Approved plans are subject to review no less than once annually to assess the feasibility and appropriateness of continuing them. Approved

plans may be eliminated when deemed appropriate by the Department director or the City Manager.

2.7.3.1 Healthy Challenge Pay and Leave Accrual

Healthy Challenge refers to the Employee/Retiree Wellness Program that rewards employees, retirees and surviving spouses for maintaining or improving their health during the year. By participating in the annual health screening and completing a health risk assessment (HRA) questionnaire, all benefit-eligible employees, retirees and surviving spouses will be eligible for the Wellness Award Payout Program. To qualify, employees/retirees/surviving spouses must complete two consecutive HRA's (one year apart), and meet at least six of the 13 Health Criteria. See HR Advisory: Healthy Challenge Wellness Program for the criteria and other information on the Healthy Choice program.

Employees may earn up to \$250.00 premium pay or 15 hours of wellness leave in a calendar year by participating in the annual health screening. To be eligible for the premium pay, the employee must be enrolled in the City's medical insurance. An eligible employee can then choose between the pay or the wellness leave. Employees who are not on the City's medical insurance are only eligible for the leave. Retirees or surviving spouses on City medical insurance are eligible for the monetary payout.

To receive the wellness premium pay or leave, an employee must be an active employee in the pay period that the pay or leave is distributed, which is normally the second pay period in May of each year. Employees terminating employment after establishing eligibility for a wellness benefit, but before the wellness benefit is distributed, do not receive wellness pay or leave. If an employee's service ends because of layoff, disability retirement, normal retirement, or death before the wellness benefit is issued, and the employee chose to receive the monetary payout, the employee or beneficiary will be eligible to receive the earned premium pay.

The wellness leave is non-accruable ("use or lose"). At the beginning of each calendar year, any unused wellness leave from the previous calendar year is deleted from the employee's leave balance. The premium pay or wellness leave is allotted to each eligible employee, retiree or surviving spouse according to the table in HR Advisory: Healthy Challenge Wellness Program.

2.7.3.2 Education/Certification Incentive Pay for City Marshals

To provide incentive to City Marshals to enhance their professionalism through education or training, education/certification pay is authorized (in

addition to normal pay). Marshals must complete their initial probation to be eligible for Education/Certification pay. See the *Glossary* for definitions of “education” and “certification incentive pay.”

The requirements for certification established by the Texas Commission on Law Enforcement (TCOLE) are used as guidelines for education/certification pay. Pay is based on the number of college hours or a degree plus years of service or the level of certification plus years of service.

2.7.3.3 City Marshal Court Time

Deputy City Marshals earn four hours of compensatory time for court time outside of the Deputy City Marshals’ scheduled beginning and ending work hours. To earn court time, a Marshal must be required to report to court either 30 minutes before the Marshal’s normally scheduled shift begins or 30 minutes after the Marshal’s normally scheduled shift ends.

2.7.3.4 Review and Evaluation of Incentive Plans

Investigations or audits of special pay plans and programs can be performed when deemed necessary by the Internal Audit Department or the Human Resources Director or any other individual designated by the City Manager.

2.7.4 Special Merit Pay

Special merit increases are a valuable tool available for Department directors to reward or recognize the truly “exceptional” employee. The purpose of a special merit increase is twofold:

- Retain valuable employees.
- Recognize the long-term valuable contribution of an employee.

A Special Merit Increase request must be submitted by the relevant Department director to the Human Resources Director for consideration. The request should provide sufficient detail to allow for an objective assessment of the justification for the request. The long-term financial impact of a special merit increase must be considered in light of the accomplishments of the employee. The financial reward of a special merit increase is substantial when compounded over time. The cost/benefit ratio of the special merit increase should be considered by the Department before making a request.

Alternatives with significantly less financial impact are:

- One-time special merit lump-sum award, discussed in the section titled “Incentive and Lump Sum Awards.”
- Prospective merit increase limited to a specific period of time.

Employees on initial probation are ineligible for special merit increases.

If the Human Resources Director denies a request for merit pay, the requesting Department director may request the Department’s Assistant City Manager to review the request and either approve or deny the request after receiving input from both the Department director and the Human Resources Director.

2.7.5 Equity Pay

With the approval of a Department’s Assistant City Manager, a Department director may request the Human Resources Director to evaluate the need for equity pay adjustments between employees within a department. The request for an equity pay evaluation must be based on department-wide operational or production needs and not on the perceived needs or fairness of individual employees. Department directors have a responsibility to avoid creating equity issues, when possible, in the selection, promotion and reclassification of employees or in the reorganization of departmental functions.

2.7.6 Acting Pay

Employees temporarily assigned to work in a position with a higher salary grade than their regular position may be paid acting pay in an amount between five and ten percent of their current base salary or at the entry of the new salary range. If an employee’s salary prior to the addition of the acting pay is higher than the entry level of the higher position, the acting pay increase will be at least five percent.

The Human Resources Director or designee must approve acting pay requests. To be eligible for acting pay, employees must meet the minimum qualifications of the higher position. Employees who act in a non-supervisory position are expected to perform most, if not all, of the duties of the position. Employees who act in a supervisory position may not have the opportunity to perform all the duties of the position, but they must satisfactorily perform all the duties that arise.

Managers must decide when acting pay is appropriate based upon the circumstances. Qualifications, assignment duration, and actual duties performed should be considered to determine when acting pay is appropriate.

Employees in on-the-job training for a higher position are ineligible for acting pay. Department directors of departments providing on-the-job training should develop a method to determine when to move employees from on-the-job training to an acting pay status.

Employees receive acting pay only for the time they are performing the duties of the higher-level position. Employees will be qualified for acting pay upon their “first act up date” provided the period in which they are acting up is or is reasonably expected/planned to be longer than 30 days. Departments should not request acting pay if an act up period is anticipated to be less than 30 days. Acting pay starts the first day of the pay period after the employee qualifies for acting pay and the Human Resources Department receives the acting pay request.

An employee acting in a higher position does not receive the acting pay for leave and compensatory time until he or she has been in the acting position for six consecutive months. The acting pay for leave and compensatory time begins the first pay period of the seventh month. Nonexempt employees are paid overtime at the acting pay rate while receiving acting pay.

2.7.7 Bilingual Skills Pay

Employees whose job duties require the use of bilingual skills may be eligible for additional compensation. To be eligible for bilingual skills pay, the employee must take and pass a language proficiency test administered by the Human Resources Department. If a language proficiency test is not available through Human Resources, employees must provide an appropriate certification from an accredited agency or institution to be eligible for bilingual skills pay.

Use of verbal skills only is compensated at \$100 per month. Use of writing skills is compensated at an additional \$25 per month for a total of \$125 per month. The availability of bilingual skills pay is based on the department’s need for employees with bilingual skills and the department’s budget. A request for bilingual skills pay must be approved by the Department director.

The Human Resources Department has a list of employees who receive bilingual skills pay. This list is available on the intranet (<http://www.cfwnet.org/HR/>). Upon request, employees receiving bilingual pay are expected to assist other departments with translation. Refusal to assist may result in the loss of bilingual pay. Bilingual pay can be discontinued at any time at the discretion of the Department director or designee as long as the employee no longer uses bilingual skills in the performance of their essential job functions.

2.7.8 Emergency Callback Pay

When an employee is called back to work an emergency after regular hours and after leaving the job site, the employee is eligible for emergency callback pay. Employees on call or on “standby” are not compensated with pay or compensatory time unless the employee is actually called back and performs work, or is entitled to pay for that time under the requirements set forth in the next section titled *On Call or Standby Duty*.

Both exempt and nonexempt employees can earn emergency callback pay. Nonexempt employees will be paid at one and one-half times their normal rate of pay or will accrue compensatory time at the rate of one and one-half times the hours worked. Exempt employees are only eligible for compensatory time accrued at the rate of one hour per hour worked, provided that their compensatory time balance does not exceed the 120-hour maximum. All compensatory time earned by exempt employees which exceeds the 120-hour maximum are forfeited.

Department directors should maintain a consistent practice when compensating employees for emergency callback. For nonexempt employees, Department directors should consistently compensate emergency callback with compensatory time or pay, but not both.

Lunch or other breaks are not considered to be work time for emergency callback hours.

Emergency callback hours end when an employee's regular shift hours begin.

An employee receiving acting pay receives the acting pay rate when emergency callback time is worked.

Employees in a nonexempt position are paid emergency callback pay for all hours worked, with a minimum of two hours paid for each callback. In the event of multiple emergency callbacks, each must be greater than two hours from the beginning of the previous one to be eligible for another two-hour minimum. If an emergency callback occurs within two hours from the beginning of a previous one, the subsequent callback is considered a continuation of the previous one. Only time actually worked during emergency callback is included in the calculation of a weekly overtime rate.

Deputy City Marshals are compensated for no less than four hours for each emergency callback. In the event of multiple instances of emergency callback, each instance must be greater than four hours from the beginning of the previous call to be eligible for another four-hour minimum. If a subsequent emergency callback occurs within four hours from the beginning of the first callback, the subsequent callback is considered a continuation of the original callback.

Documentation stating the need for the emergency callback must be maintained in the department for a two-year period for possible review or audit.

2.7.9 On Call or Standby Duty

On call or standby duty is only compensable when an employee is so restricted by such duty that the employee does not have free use of his or her time. These factors are used to determine eligibility for on-call pay:

- Whether the employee has a BlackBerry or city cell phone (thereby permitting mobility).
- The required response time after receiving a call.
- Whether the duty is absolutely mandated (no trade-offs with other employees and no consideration of emergencies).
- Disciplinary consequences, if any, for failure to respond to a call.

Department directors or their designees are expected to establish on-call policies that are not so restrictive as to require compensation under the Fair Labor Standards Act or these guidelines.

2.7.10 Longevity Pay

Longevity pay is additional compensation paid to eligible general employees for long-term continuous service. Eligible employees include all job classifications except Department directors, employees having executive job codes and appointed officials.

After the 3rd, 4th, and 5th year of continuous service, eligible employees receive a total of \$300 each year. Payments will be distributed the last pay period of each month in the amount of \$25.

After the 6th, 7th, and 8th year of continuous service, eligible employees receive a total of \$600 each year. Payments will be distributed the last pay period of each month in the amount of \$50.

After the 9th and each subsequent year of continuous service, eligible employees receive a total of \$900 each year. Payments will be distributed the last pay period of each month in the amount of \$75.

Longevity payments begin after the required years of continuous service have been met, based on the most recent hire date and is prorated over the following 12 months. To receive longevity pay, the following criteria must be met:

- An employee must complete the required years of continuous service.
- An employee must be an active employee in the pay period for which longevity is paid.
- An employee must not have been absent more than 90 consecutive calendar days in one calendar year.

For employees reinstated after disciplinary action, the terms and conditions of the reinstatement directive determines the impact, if any, upon longevity pay for these employees.

Regular part-time employees receive longevity pay based on the relation of their scheduled weekly hours to a forty-hour week. (Examples: a twenty hour per week

employee would be .5 = they would receive 50 percent of the longevity pay otherwise due, a thirty hour employee would be .75 = they would receive 75 percent of the longevity pay otherwise due.)

Employees with interrupted service establish eligibility from the latest date of employment.

2.7.11 Uniforms/Personal Protective Equipment

2.7.11.1 Uniforms

Some City departments require employees to wear uniforms. In some cases uniforms are provided; otherwise, a clothing allowance is provided to purchase these items. This is determined at department discretion.

In instances where uniforms are worn solely to identify a person as a member of an organization (department, division, etc.), uniforms may be issued ninety (90) days from the start of employment. In other cases where a job safety analysis has identified a hazard that requires uniforms (e.g., leather boots), the equipment should be issued before the employee begins work (please see below for more information regarding personal protective equipment).

For maintenance and accountability, a uniform agreement may be necessary. The agreement, if utilized, will include terms of the organization's clothing allowance program. One element that must be included in all general employees' agreements is the financial responsibility at termination of employment. Specifically, if an employee separates from service within six months after uniforms are issued, the terminated employee must turn in his or her uniforms or one-half the cost of the uniforms will be deducted from their final paycheck.

2.7.11.2 Personal Protective Equipment

In some cases, where a job safety analysis has identified a hazard that requires uniforms (e.g., leather boots), employees are required to wear Personal Protective Equipment (PPE) to protect them from job hazards. Such equipment will be issued prior to the time the employee begins work. Departments will either issue these items to employees or a clothing allowance will be provided to purchase them.

For maintenance and accountability, a uniform agreement may be necessary. Employees who separate service from the City will have no financial responsibility for PPE.

2.8 Conditions of Pay

2.8.1 Payroll Deductions

Automatic payroll deductions can be made (with employee authorization) for legally mandated deductions and those associated with City-sponsored programs. Automatic payroll deductions are also available to pay membership dues for employee organizations and associations and for other City-offered services.

See HR Advisory: *Payroll Deductions* for guidelines and approval requirements for payroll deductions.

2.8.2 Recovery of Inaccurate Pay or Benefits

It is the employee's responsibility to review their payroll information and deductions for accuracy. If an employee is overpaid, given more leave benefits than they are due, or receives any other undue benefit or compensation, whether due to error for any reason, an employee's misrepresentation, the misapplication of a policy, or an error in processing, the employee is expected to notify his or her Timekeeper or the Department's Human Resources Coordinator. The City will take steps to recover the benefits or compensation. Likewise, any form of payroll deduction that results in an underpayment should be reported, as well.

Employees are expected to repay the City upon notification of an overpayment error. Generally, employees are given the same amount of time to complete repayment to the City as the time during which the error or overpayment was made, unless otherwise provided for by agreement. For example, if an employee was overpaid for three pay periods, the employee would have three pay periods from the date of notification to complete repayment. Employees will not be allowed to repay the City over multiple pay periods if such payments would cross over into another calendar year.

Attempts will be made to establish an agreed method to recover overpayments. Failure to agree on a method results in appropriate actions, such as payroll deductions or reductions in leave time accrual or pay rate, as long as the deductions do not reduce the employee's pay below the minimum wage. An employee's failure to cooperate in the recovery process could result in disciplinary action up to and including termination.

2.8.3 Deductions from Exempt Employees' Pay

Exempt employees receive a salary that is intended to compensate them for all hours worked for the City. While it may be subject to modification from time to time, such as during salary reviews, an exempt employee's salary will be a predetermined amount that is not subject to reduction due to variations in the quality or quantity of the work performed, except as specifically allowed by law.

The City prohibits the improper pay deductions specified in 29 CFR section 541.602(a).

Under the following circumstances, though, the City may, but is not required to, deduct from an exempt employee's pay:

- For absences from work due to sickness, disability or personal reasons when the employee has no paid leave to use;
- To offset amounts received by an employee for jury fees, witness fees or military pay;
- For unpaid disciplinary suspensions of one or more full days imposed in good faith for infractions of written workplace conduct rules;
- For penalties imposed in good faith for infractions of safety rules of major significance;
- For weeks in which an exempt employee takes unpaid leave under the Family and Medical Leave Act; and
- For unworked days in the initial or terminal week of employment.

Employees' salaries may also be reduced for certain types of deductions such as their portion of health, dental or life insurance premiums; state, federal or local taxes; Medicare; or contributions to a 457 or pension plan. Further, reducing an employee's accrued vacation, personal, sick or other form of paid time off for full- or partial-day absences for personal reasons, sickness or disability does not constitute an improper deduction.

It is the policy of the City of Fort Worth to accurately compensate employees in compliance with all applicable state and federal laws. To ensure that they are properly paid for all time worked and so that no improper deductions are made, employees must correctly report all work time and review their pay advice to identify any errors.

If an employee believes that an improper deduction has been taken from his or her pay, he or she should use the following reporting procedure. If the employee discovers an improper deduction within seven calendar days after the date of the relevant pay advice, he or she should contact his or her department's Human Resources Coordinator (HRC). If the error is not corrected within 20 days of submission, the employee or the HRC should contact their manager or supervisor. All improper reductions of pay in exempt employees' compensation should be reported, regardless of when they are discovered.

Any act of retaliation against an employee who questions his or her pay is strictly prohibited.

Reports of improper deductions will be reviewed as quickly as possible. If it is determined that an improper deduction has occurred, any underpayment will be

reimbursed and efforts will be made to ensure that further improper deductions do not occur in the future.

2.8.4 Pay Following Failure to Complete Probation

If, following a promotion, an employee is not able to perform the job successfully, and if the employee is returned to his or her previous job or one similar, the employee's pay is reduced to at least the employee's pre-promotional pay rate.

2.8.5 Final Pay at Termination or Retirement

Final pay for hours worked in a pay period before termination is directly deposited into the employee's primary designated account or pay card account on the pay day after the termination PAR is processed.

Employees who terminate during a pay period are not paid for vacation and short-term sick/family leave accrued during that final pay period.

If a pay rate change occurs during the pay period in which the employee terminates, the employee is paid his or her terminal leave pay at their final rate. The employee is also compensated for any appropriate leave balances at the employee's final pay rate.

Nonexempt employees are paid for accrued compensatory time at termination regardless of the reason for the termination. Exempt employees who voluntarily terminate or retire are paid for accrued compensatory time. Exempt employees who are involuntarily terminated or resign in lieu of termination may be paid for accrued compensatory time at the discretion of the Department director in exchange for a release of claims.

The City can collect any money from the employee's final pay or terminal leave payout that is owed to the City for benefits or overpayments. If the pay for the hours worked on the final paycheck is reduced to below the minimum wage, the Law Department needs to be consulted to ensure that FLSA regulations are not violated.

2.8.6 Release of Payroll Advice

If an employee is unable to come to a City facility to retrieve his or her final payroll advice, the employee can designate an individual to retrieve it. A written, signed authorization from the employee must be presented and the person picking up the payroll advice must present valid photo identification.

2.8.7 Prior Pay Period Adjustments for Pay or Leave Corrections

Pay, leave and other adjustments can be made to timesheets immediately after the pay period and up to 28 days after the pay period begin date. The reasons for adjustments must be documented by the timekeeper/person making adjustments and maintained with payroll records for the pertinent time reporting period. Any adjustments 28 days or later after the pay period begin date require the review and approval of the Human Resources Director to adjust the leave balances. The review request is submitted by the Department director to the Human Resources Director.

2.8.8 Daylight Saving Time Pay Considerations

When a time change occurs during an employee's shift, the employee is paid for hours worked and can use leave time to make up any time lost for a complete shift because of a time change. Nonexempt and exempt employees assigned to an evening or night shift enter a start and stop time for hours worked within a shift so the Daylight Saving Time Rule can accurately adjust the time. Exempt employees not assigned to a shift report the actual hours worked.

3. Classification

3.1 Purpose and Introduction

The purpose of this chapter is to provide guidelines on employee classifications. The City of Fort Worth groups budgeted positions into classifications. The positions within a classification have similar duties and responsibilities. The City treats the positions in a classification as equivalent with regard to personnel and salary administration.

The Human Resources Department provides the classification specifications. The specifications describe the range of duties that are performed by employees in the class. The specifications include essential and other duties and responsibilities statements, qualifications, and working conditions of the classification. Classification specifications describe only the major duties and functions and are not intended to describe specific positions in detail.

Official classification titles are used in all personnel, payroll, accounting, budget appropriations and functional records and transactions. "Working" or "functional" job titles may be used at the discretion of individual Department directors; however, official class titles must be used when processing personnel action requests (PARs). A coding system designates each classification.

The Human Resources Director administers and maintains the classification system and may initiate studies of individual positions, a series of positions, classifications, occupational groupings or organizational units to maintain the integrity of the classification system. When the need for a new classification arises, the Human Resources Director establishes a new classification title and develops classification specifications for the new classification.

For questions about this chapter, contact the Classification and Compensation Manager in the Human Resources Department.

3.2 Reclassification

The Human Resources Director must approve any reclassifications and new classifications. This responsibility includes conducting classification reviews, evaluating and classifying new positions, determining the appropriate classification whenever duties of an existing position change, and reviewing the Classification Plan to ensure equitable classification of positions.

Allocation of positions to a classification is based on a whole job analysis that includes, but is not limited to, consideration of the position's required expertise, decision-making

responsibility, supervisory responsibilities, management control, contacts, physical effort, and working conditions.

Department directors assist in this process by identifying any changes in the organization, including changes in function, organizational relationships, work methods, proposed new positions, and changes that have been, or are to be made, in the duties and responsibilities of any departmental positions.

Ordinarily, employees who are in reclassified positions must meet the minimum qualifications for the classification. At the discretion of the Department director, an employee might not be required to meet the minimum qualifications if the employee has been performing the essential functions of the reclassified position at a satisfactory level for at least six months. In this situation, the Department director must submit a written request for waiver of minimum qualifications to the Human Resources Director, and the request must be approved. The Human Resources Director's decision is final.

Classification and position reviews are conducted upon the request of a Department director or Human Resources Director in a manner that is fair, equitable and objective, taking into consideration not only the needs of the individual department but the needs and requirements of the City as a whole. For more information on the reclassification process, see the HR Compensation and Classification webpage (<http://www.cfwnet.org/hr/classandcomp.html>) for more information.

3.3 Reclassification Appeals

Department directors may appeal classification recommendations made by the Human Resources Department. The Director must submit a written appeal providing specific information explaining the basis of the appeal to the Human Resources Director within ten business days after receipt of the reclassification recommendation. The Human Resources Director reviews the appeal and meets with Human Resources staff and, as necessary, the Department director to reach a decision to approve or deny the appeal.

If the Human Resources Director denies the appeal, the Department director may request the department's Assistant City Manager to review the request and either approve or deny the request after receiving input from both the Department director and the Human Resources Director.

4. Employment

4.1 Purpose and Introduction

This chapter serves to provide information on types of personnel actions and to inform employees of requirements and processes in regards to employment with the City of Fort Worth.

For questions about this chapter, call the HR Manager for Staffing Services.

4.2 Personnel Actions

The following section details types of personnel actions within the City of Fort Worth.

4.2.1 Promotion, Demotion, Transfer

A promotion occurs when an employee moves into a job classification having a salary grade with a higher entry pay amount than the previously held classification.

A demotion is when an employee moves into a job classification having a salary grade with a lower entry pay amount than the previously held classification.

A transfer occurs when an employee moves into a job classification with the same entry pay amount and a different job code from the previously held classification.

A lateral transfer occurs when an employee moves from one position to another position within the same classification, with no change in job code. Lateral transfers may be intra- or inter-departmental.

4.2.1.1 Transfers

Department directors may decide that it is in the organization's best interest to transfer an employee. If the Department director requests a non-disciplinary transfer, and the Human Resources Director or designee approves, the Human Resources Department will facilitate the transfer.

A transfer between departments does not automatically result in a pay increase. If a pay increase is requested, it must be approved by the Human Resources Director. Before the Human Resources Director will consider such a request, the applicable Department directors must both agree to the pay request.

4.2.1.2 Transfers in the Same Job Family

Jobs within the same job family may share a similar pay structure but require different qualifications. The jobs may entail different duties. Such transfers require the approval of the Human Resources' Staffing Services Division Manager.

If an employee's job code changes as a result of a transfer and the duties and qualifications of the new and former jobs are similar, the employee only needs to meet the minimum qualifications for the new classification. If the job code changes and the job duties are dissimilar, the employee must meet the minimum qualifications for the new classification and the transfer must be approved by the Human Resources Staffing Services Division Manager before the transfer takes place.

4.3 Conditions of Employment

4.3.1 Probationary Periods

4.3.1.1 Initial Probation

The initial probation is a time when new employees, including temporary employees and rehired employees, become familiar with their job. The new employee determines whether he or she can perform the duties of the job. Likewise, the City determines whether the employee can perform assigned tasks satisfactorily and whether the employee complies with work rules and regulations.

Employees cannot be transferred, promoted, demoted or reclassified during their initial probation. Employees may not apply for other positions within the City during their initial probation. A probationary employee can be terminated at any time during the initial probation and cannot file an appeal of their termination.

Regular, Full-Time and Part-Time general employees are in an initial probationary status for six months from the date of hire unless they are enrolled in the Police or Fire Training Academy. General employees enrolled in the Police or Fire Training Academy remain in initial probationary status for the entire duration of their Academy enrollment and until they become Civil Service employees.

A formal performance evaluation is conducted at the end of an employee's initial probation. If there is any concern regarding the probationary employee's performance or behavior, a performance evaluation should be conducted at any time before the expiration of the probation period and the

initial probationary period can be extended. See *Probation Extensions* in this chapter for additional information.

Following completion of the initial probation, accrued leave benefits, such as vacation and sick leave, are available for use with supervisory approval. Personal holidays are subject to the use-or-lose date of December 31st annually. If the initial probation is extended, the use of accrued leave and personal holiday is at the discretion of the Department director. Earned holiday leave hours accrued can be used during the initial probation, with supervisory approval. During the initial probation period, an employee who has requested to use earned compensatory time shall be permitted to use such time within a reasonable period after making the request if, in the opinion of the Department director, the use of compensatory time does not unduly disrupt the operations of the Department.

Nonexempt employees may be eligible for a performance pay increase after completion of their initial probation, if their overall performance rating meets or exceeds the current year's criteria for pay increases. Any such performance pay increases for nonexempt employees are dependent on deadlines for performance evaluation processing and subject to the budget approved by the City Council. Exempt employees are not eligible for a pay increase after initial probation unless an across-the-board pay increase has been implemented. Performance pay increases are at the discretion of the Department director.

During his/her initial probation, employees can access funeral leave if approved by the Department director. (See *Funeral and Bereavement Leave* in Chapter 5 for further information.)

4.3.1.2 Probation after Transfer, Promotion or Demotion

Employees who transfer, promote or demote to a new position must serve a six-month probation from the date of the transfer, promotion, or demotion. This includes promotion into a reclassified position. Employees have access to accrued leave during probation for a transfer, promotion, or demotion. These probationary periods are subject to extension like any other probationary period. (See *Probation Extensions* below.)

Transfers that are temporary assignments or reassignments with no significant change in job duties and are within the same department are exempt from the six-month probation requirement.

If a probationary employee cannot satisfactorily perform the assigned duties of the position into which he or she was promoted or transferred, the Department director or designee can return the employee into his or

her former position, if still available, or into another comparable position, if such a position is available. If the promotion or transfer was to another department, the two Department directors or their designees will work together to find a solution. If the employee is returned or moved to a lower paying position, the employee's pay will be reduced to the employee's prior pay or less at the applicable Department director's discretion. If the employee's original position is no longer available and if there is not a suitable other position in either department, the employee's current Department director will be responsible for terminating the employee.

4.3.1.3 Disciplinary Probation

Employees may also be placed on disciplinary probation for serious performance, behavior or attendance deficiencies. (See Chapter 13 for information on *Disciplinary Probation*.)

4.3.1.4 Probation Extensions

Any type of probationary period may be extended one time for up to three months at the discretion of the Department director or designee. Such extensions must comply with the provisions for the original probation.

To extend a probation period, the supervisor must issue a written probation extension notice to the employee before the end of the probation and fill out a Personnel Action Request form. The notice must identify the reason(s) for the extension and what the employee must do to successfully complete the probation. A copy of the extension must be signed by the employee, witnessed and submitted to the Human Resources Records Division. If the employee refuses to sign, the supervisor and witness should note it on the extension notice. Probation extensions are not grievable.

If an employee on initial probation, transfer, promotion or demotion probation, or on an extended probation, is off work for any period of time during the probation, the probation may be extended by the number of work days off and the employee must be informed of this extension in writing.

4.3.2 Secondary Employment

Employees who want to engage in secondary employment must obtain approval from the Department director or designee before engaging in such employment. The employee must complete and submit a Secondary Employment Request form. An employee already working a secondary job at the time he or she applies with the

City must also complete and submit a Secondary Employment Request form to seek permission to continue working the second job if hired.

If a secondary employment request is approved, employees may not use City work time, supplies or equipment to perform secondary employment work. A request to engage in secondary employment will be denied if the policy conditions are not met. Approved requests may be rescinded if the policy conditions are not met and disciplinary action up to and including termination may be issued.

4.3.3 Employee Personnel Records

The Human Resources Department maintains an employee record for each employee. Typical documents kept in that record include new-hire information (e.g. applications and résumés, onboarding paperwork, employment verifications and references, relevant federal forms such as the I-9 and W-4, confidentiality selections, policy acknowledgements, residency requirements, statement concerning employment in a job not covered by Social Security, and employment conditions acknowledgement), performance reviews, address and tax-related change forms, disciplinary forms as applicable, promotion and transfer paperwork as applicable, payroll related paperwork and authorizations of change in salary or rate, attendance records as applicable, and other pertinent correspondence with the employee. While departments and supervisors may maintain similar records regarding employees, originals of any of the above should be sent to Human Resources.

Information in City employee personnel files is public, except as provided by applicable law, including specific statutory authorization of confidentiality. For example, upon official request the City can release the employee's name, sex, ethnicity, age, employment or appointment date, termination date, position title, salary, and department to which the employee is currently assigned. Responses to requests for employment verification will be limited to information about the employee's hire date, job title and salary range. (See *Employment Verification* in Chapter 1 for details about the information that can be given out in response to employment verification requests.)

The Human Resources Department maintains a personnel file for each employee. Any person may inspect and review the records during regular business hours by submitting a request in writing by fax, mail, email, in person or over the online public information portal (FOIA) maintained by the Records and Information Management Office.

Confidential information contained in a City employee's personnel file is open for inspection by the employee themselves or the employee's authorized agent. Employees can also review their personal information through employee self-service in PeopleSoft.

A City employee who objects to information or material in his or her permanent personnel file, because it is inaccurate or misleading, can file a complaint with the Human Resources Director or designee within 30 days of the date that the employee knew, or should have known, that the disputed information was in the file, and the Human Resources Director, or designee, will determine if the information should be changed. This decision is final and cannot be appealed. This complaint process does not apply to simple factual inaccuracies in an employee's personnel file, such as address and phone number.

4.3.4 Nepotism (Employment of Relatives) and Personal Relationships

Employment of relatives is permitted; however, employees may not appoint or employ their immediate family members, nor use their position to influence their appointment or employment. See the *Glossary* for the definition of "immediate family member."

Employees shall not be placed in positions in which they would supervise or be supervised by an immediate family member; or be in a position where immediate family members could affect each other's employment, promotion, salary administration, or other related management or personnel transactions.

In addition to familial relationships, personal relationships and associations that lend themselves to favoritism are also prohibited in employment and promotion decisions. It is the employee's responsibility to disclose such relationships in situations where supervision, employment, promotion, salary administration, or other related management or personnel transactions are involved. Failure by a supervisor or the affected employee to disclose their knowledge of a familial or personal relationship between employees that is prohibited by this section may result in disciplinary action, up to and including termination.

4.3.5 Searches on City Property

The City may search or inspect work areas, desks, lockers, city vehicles, or equipment without prior notice or consent if the City has a reasonable suspicion that evidence of criminal conduct, or work-related misconduct would be found in the place or thing that was searched; the place or thing that was searched was part of the workplace; and the search is reasonable in scope.

Employees do not have any expectations of privacy with respect to items related to their work, for example, passwords, combinations, desk drawers, file cabinets, work areas, city vehicles, and lockers. Employees will be required to provide supervisors with passwords and keys upon request. Employees may only use personal locks on City property if approved by their supervisor or Department director.

Personal belongings such as wallets, purses, backpacks, briefcases, pockets, coats, and cell phones will be subject to inspection if reasonable suspicion exists that the

search will uncover evidence related to a possible policy violation, work misconduct or criminal act. Employees should limit the amount of personal belongings that are carried or kept on City premises.

A supervisor may acquire access to any documents, computer data/history, emails, electronic media or device, voice mail messages, facsimiles, mail, packages, desks, offices, file cabinets, lockers, general working areas or City-provided vehicles and equipment to locate work-related materials whenever they are needed, including during an employee's absence.

The City may choose to equip some or all of its vehicles used by employees with Global Positioning System (GPS) devices (e.g., Automatic Vehicle Locators or AVLs) or internal cameras in order to track and monitor the location of City vehicles, including those that are assigned to specific employees.

4.3.6 Lunch and Rest Periods

Rest periods are a privilege, not a right, and should not interfere with proper performance of work responsibilities and schedules. If workflow permits and if authorized by their immediate supervisors, employees may take two 15-minute rest periods each workday. Rest periods cannot be used at the beginning or end of the work day to shorten the work day. Employees will be compensated for authorized rest periods.

Lunch periods may be offered for full-time employees. The department director or their designee can determine whether a lunch period will be offered, in addition to scheduling and deciding the duration of lunch periods. Employees will not be compensated for lunch periods when they are completely relieved from duty unless authorized by the department director or designee.

Departments may consult with the Human Resources Department for assistance in administering rest and lunch period policies.

4.3.7 Professional Dress Policy

City of Fort Worth employees must maintain a neat, professional appearance, appropriate to his or her assigned duties. Employees are responsible for using good judgment, wearing appropriate attire that is clean and in good repair, maintaining high standards of good grooming and personal hygiene, and for presenting an appearance that meets the professional standards of the City of Fort Worth. Department directors may modify the dress code as needed to fit worksite conditions and address safety issues.

On normal business days, "business casual" attire is required for most City employees. Uniforms are appropriate for those occupations within the City that

require or encourage uniforms, even if “appropriate uniform” (for example, shorts) is not appropriate for non-uniformed employees.

“Business Professional” or City-sanctioned work attire is required to present a professional appearance for meetings, special events, presentations, council meetings or when representing the City on special occasions.

The City Manager can declare “Special occasion” days. Such days may include Stock Show Day(s), training days, and heritage celebration days. On such days, the City Manager can specify appropriate dress guidelines to follow. The practice of “Friday casual days” is no longer acceptable.

Unusual circumstances, such as weather conditions, special work assignments, medical reasons, worksite conditions and/or non-normal working hours and situations, may be sufficient reasons for the department director to grant exceptions to the dress standards.

General dress guideline reference table can be found in HR Advisory: *General Dress Standards and Guidelines*.

A supervisor will meet with employees not appropriately dressed to discuss the matter. The employee will be required to change to appropriate clothing. If it is necessary to leave work to do so, employees are required to use their own leave time. If no leave time is available, the absence will be without pay. Ongoing incidents of inappropriate dress may result in disciplinary action up to and including termination.

4.3.8 Participation in Special Events and Voluntary Committees

Attending or participating in special events or voluntary committees during regular work hours may be permitted with advanced approval from the Department director. The time is not paid by the City and employees must use personal leave to be compensated. If an employee is required by their Department director to attend, assist with or provide services at an event or on a committee, the City will compensate the employee for their time. Examples of special events include celebrations, charitable functions, humanitarian efforts, and non-job-related committees associated with special events, employee benefits or non-City programs.

4.3.9 Participation in City-Sponsored Events

If an employee attends an official City-sponsored event during scheduled work time, it is considered work time. Supervisor approval is necessary for an employee to attend such events. If an employee attends a City-sponsored event while off work, it is not work time and the time will not be compensated. Examples include City-sponsored health fairs, donating blood, and open enrollment meetings.

4.3.10 Court Duty

Those employees who are subpoenaed or must attend Court or legal proceedings for a City-related legal matter, will be compensated for the time spent attending court proceedings, during their regularly-scheduled work time. Employees who initiate legal action against the City will be compensated for the time they actually spend attending court proceedings, depositions and mediations during their regularly scheduled work hours. But, those employees will not be compensated for the time they spend preparing for any legal proceedings, including meetings with attorneys or representatives. Employees will not be compensated for time spent conducting or preparing for personal or private legal business or preparing for related legal proceedings.

4.3.11 City Auctions

The Fort Worth City Code prohibits City employees from either directly or indirectly submitting bids for, or purchasing, any property sold by the City through a City Auction. Only individuals who are non-City employees, and not acting on behalf of a City employee, and who have properly registered to participate, may bid or purchase property at City auctions.

4.3.12 Smoking in the Workplace

City of Fort Worth buildings and facilities are "smoke free" by City Ordinance No. 13009. City employees must adhere to this policy and bring it to the attention of persons visiting City buildings and facilities. City vehicles are considered designated work areas under this policy and are "smoke free." This prohibition includes the use of electronic cigarettes, e-cigarettes, or personal vaporizers. Employees who take "smoke breaks" must comply with the City's Rest Periods policy. No additional breaks or rest periods are granted to employees who smoke.

4.3.13 Prayer in the Workplace

The City of Fort Worth is prohibited from discriminating against employees on the basis of belief in any religion, or nonbelief in religion. The City is required to allow its employees to individually express their religious beliefs to the greatest extent possible, consistent with the requirements of the law and workplace efficiency. The expression of religious beliefs should not cause a disruption to other employees or the work environment and should not interfere with the performance of essential job functions. Any requests for religious accommodation should be made by contacting the Employee Relations Division of the Human Resources Department. Additionally, religious harassment will not be permitted.

The City is prohibited from requiring its employees to participate in religious expression as a condition of employment. This includes situations such as employee

meetings, conferences, holiday luncheons, retirement receptions, and office parties. In lieu of a prayer, the employees may begin holiday luncheons with a moment of silence.

This does not prohibit employees from engaging in religious practices on an individual basis, such as reading a religious book at the employee's desk during a break.

Invocations at City Council Meetings are excluded from this policy.

4.3.14 Political Activity

Political Activities of City employees are governed by Section 2-186 of the City Code. Employees, excluding Department Directors, Assistant City Managers, the City Attorney, and the City Manager, may take an active part in another person's political campaign for City Council. Employees are prohibited from taking an active part in their own, or any other person's, political campaign for an elective position during working hours or while wearing a City uniform. The term "taking an active part" includes, but is not limited to, wearing campaign-related clothing or accessories (e.g., buttons, nametags), making a political speech, making financial contributions, distributing, or displaying on City premises, campaign literature or insignia, writing a letter, signing a petition, and actively soliciting votes.

The City does not prohibit employees from becoming a candidate for public office. No disciplinary action shall be taken against an employee, including terminating the employment of the employee, solely because the employee becomes a candidate for public office. An employee who becomes a candidate for public office must fulfill all the duties and responsibilities associated with his or her employment.

City employees may actively campaign in any national, state, county, city (as excepted above) or school board election on their own time and away from their job site.

All City employees are encouraged to exercise their constitutional rights and vote. For complete information, see City Code Section 2-186.

4.3.15 Nursing Mothers

The City provides employees who are nursing mothers a reasonable break time and a private location to express breast milk for a nursing child for one year after the child's birth. Employees who plan to express milk during work hours need to communicate with their supervisors regarding space and scheduling needs.

Supervisors should work with nursing mothers to provide a regular place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public that may be used by the employee to express breast milk. Specific

guidelines for setting up a temporary lactation center can be obtained from the Human Resources Wellness Division. As for scheduling, the needs of each employee will differ.

To the extent that is feasible, nursing mothers should use the amount of time normally allotted for breaks and lunch periods to express breast milk. If the employee uses a break that would otherwise be compensated, she must be compensated in the same way that other employees are compensated for that break time. If, however, an employee uses a break that would otherwise not be compensated, she will not be compensated for the break time. There may occasionally be times when a nursing mother needs more than her usual amount of time to express breast milk. On such occasions supervisors may, depending on the needs of the individual worksite, allow the employee additional paid time, allow her to make up the additional time at the end of the work day, or use compensatory time, or available leave that can be used for such purposes, e.g., vacation leave,, holiday leave, or personal holiday leave.

4.3.16 Parent/Teacher Conferences

Attending parent/teacher conferences is an important work/life event for parents with school-age children. Department managers and supervisors should be flexible and attempt to revise work schedules or duties to allow employees the time to attend these conferences. Employees may use available vacation leave, compensatory time, holiday leave or personal holiday leave to attend these conferences.

Department directors should establish departmental guidelines for allowing employees to attend parent/teacher conferences while minimizing work disruption or loss of productivity. Department directors can require documentation that an employee has attended a parent/teacher conference.

4.3.17 Children in the Workplace

In rare cases, it may be necessary for employees to bring their children to the worksite during regular work hours for short periods of time. In such instances, this period of time should not exceed one hour.

Circumstances which may warrant the presence of children at the worksite during regular work hours include:

- A breakdown of child care arrangements.
- Before or after scheduled doctor appointments.
- Brief visitation of parent's worksite and to meet coworkers.

In such cases, the following guidelines should be followed:

- Prior approval must be obtained from the supervisor.
- Children must be escorted and supervised at all times.
- For safety reasons children will be prohibited from manufacturing areas, hazardous material areas, forklift or pallet jack traffic areas, areas requiring security clearance, and areas requiring safety equipment or clothing.
- Children will not be permitted in public service areas.
- Children will not be permitted to ride in city vehicles.
- Employees are responsible for the actions of their children. If the child is disruptive, the employee will be asked to take the child out of the workplace.
- Children with contagious illnesses are not allowed at the workplace.

A Department Director or designee may set additional guidelines to fit the operations at a particular location or facility. Upon approval, Department Directors may permit employees to participate in “Take Your Child to Work” day events and may limit or prohibit such events at specific sites or facilities.

Permission to bring a child to work is a privilege, not a right or entitlement. Department directors or designees make decisions in the best interest of the organization regarding bringing children to work. These decisions are not grievable.

4.3.18 Working from Home

A nonexempt employee may not work from any non-assigned work location, including the employee’s home, unless a Department director or designee allows the employee to work from home under emergency or critical situations. This does not apply to a nonexempt employee who is “on call,” and any emergency work that can be done by phone or computer. A nonexempt employee may respond to emails or answer questions over the phone if the time spent on such responses is de minimis under FLSA regulations, that is, infrequent and insignificant periods of time lasting only a few seconds or minutes beyond the scheduled working hours, which cannot as a practical matter be precisely recorded for payroll purposes.

An exempt employee may work from home if authorized by his or her department director or designee.

4.3.19 Employee Organizations and Associations

City employees can join, organize or maintain membership in an employee or labor organization if desired. The City neither encourages nor discourages these activities, nor does membership or non-membership in an employee or labor organization affect the employee's standing or rights as a City employee. The policy herein stated is in accordance with the provisions of the laws of the State of Texas and the Charter of the City of Fort Worth.

Pursuant to Texas law, it is illegal for City employees to strike or picket or take any action that interferes with the ordinary and orderly conduct of the City government's business.

Unless provided by statute, governmental employees of Texas cities have no legal right to bargain collectively. Consistent with this policy, state law denies City officials the power to enter into a collective bargaining contract or unconditional promise with any employee group or employee organization that is not authorized by state statute.

Solely as a convenience to City employees belonging to an employee association or labor organization, the City of Fort Worth deducts dues when specifically authorized by the employee and where the deductions comply with City policy. The procedure for initiating or canceling payroll deduction is established by administrative regulation or HR Advisory. Membership in such organizations and/or any related payroll deductions do not affect an employee's job or standing as a City employee.

4.3.20 Employee Identification Badge

All City employees are issued an Employee Identification Badge with photo and employee number when they are hired. New employees receive their Employee Identification Badge during New Employee Orientation. Contractors who will be working on site as well as temporary, seasonal and less than part-time employees will also be issued identification badges.

The employee Identification Badge is City property. It can only be used for identification purposes and for employee access to City buildings. Access to secure locations or emergency scenes must be approved by an Assistant City Manager. The employee must wear the badge when engaged in City business unless working conditions make wearing the badge hazardous or impractical. The Department director must give approval for an employee to not wear the badge due to hazardous or impractical conditions.

Employees wearing a department-issued uniform are not required to wear an employee Identification Badge, but must have the badge in their possession.

The employee must wear the badge in City facilities and when dealing with the public. It must be worn so that the employee's name and photo are clearly visible. Old, faded or damaged badges should be replaced as soon as possible.

If an employee loses their Identification Badge, the employee should immediately contact their department's Human Resources Coordinator (HRC) for a replacement badge and to notify the City Marshal's Office so that the card can be deactivated.

When an employee's employment ends, the department's HRC will retrieve the employee Identification Badge and other City property. If an employee terminates employment without notice, the department's HRC will contact the Marshal's Office immediately to cancel access codes associated with the Identification Badge. The HRC will attempt to contact the terminated employee to retrieve the Identification Badge and other City property in the ex-employee's possession. The City may charge a former employee a reasonable fee if the employee does not return City property after the employee's employment ends, and may deduct that reasonable fee from the former employee's final paycheck.

4.3.21 Inclement Weather/Disaster Policy

In inclement weather or disaster, it may be necessary to limit City services. In these situations, the Assistant City Manager for Emergency Management will make the determination and issue a declaration.

If an official declaration is not made, employees should consider their own safety and the safety of others when deciding whether to report to work. If it is not possible or advisable for the employee to report to work, departmental absentee procedures should be followed. If inclement weather or disaster (declared or not) prevents an employee from reporting to work or requires the employee to leave work, appropriate leave (vacation, comp time, Personal Holiday, accrued holiday, wellness leave) must be used. The employee may, with supervisory approval, work additional hours within the same work week to make up the lost time. If a probationary employee is affected, time may be deducted from the employee's current leave accrual. When the options noted above are not possible, leave without pay may be used. However, before placing an exempt employee in a without pay status the Human Resources Compensation Division Manager must be consulted.

Employees will only be paid for actual hours worked or leave used during periods of inclement weather or disaster.

4.3.22 Furloughs

Employee furloughs may be declared by the City Manager when necessary for financial reasons. A furlough may be declared for all employees or for specific groups of employees. Furloughs can be declared by the day or partial days.

When a mandatory furlough is implemented, furloughed employees are paid on an hourly basis during that workweek. Subject to the exceptions described below, furloughed employees are not required or allowed to work more than the number of allowable work hours in that workweek. If an employee works more than the number of allowable hours during a furlough week, the number of hours worked over the allowable hours, up to 40 hours, must be taken as a furlough during another workweek as required by the Department director.

Employees whose regular day off is on a furlough day are furloughed on a different day during that workweek. If an employee's wages are reduced in lieu of a furlough day, those wages must not fall below the federal minimum wage.

4.3.22.1 Nonexempt Employees During Furloughs

During any week that a furlough is mandated, nonexempt employees will have their normal workweek reduced to the designated number of hours in the workweek.

4.3.22.2 Exempt Employees During Furloughs

When a furlough is mandated, exempt employees are considered nonexempt, and work only the designated hours in that workweek. A mandatory furlough and the resulting deductions from pay do not disqualify an exempt employee from being paid on a salary basis except in the workweek during which the furlough occurs and for which the employee's pay is accordingly reduced.

4.3.22.3 Other Furlough Considerations

Leave accruals are reduced during the pay period in which a furlough is taken in proportion to the reduction in the number of hours worked. Accrued leave benefits, such as vacation or compensatory time, cannot be taken or used in lieu of a furlough.

Furlough days can be used to access major medical sick leave and are not considered a break in service for employees who are on major medical sick leave.

Workers' compensation weekly benefits are not affected by furlough days. City-provided workers' compensation supplements are not paid on furlough days.

Intentional violations of this policy may result in disciplinary action, up to and including a prospective reduction in pay, days off without pay, and discharge.

4.3.22.4 Exceptions to Furlough Policy

Situations may arise that require exceptions to the furlough policy. Department directors are authorized to use their discretionary authority to require employees to work more than the allowable work hours during a furlough week. In addition, certain departments may need to modify an individual employee's furlough schedule because of operational needs.

If an employee must work more hours than designated in a workweek in which a furlough is in effect, the hours are compensated at straight time up to 40 hours worked and at time and one-half for hours over 40.

During a furlough week, an employee called back to work an emergency after regular working hours and after having left the job site, or to work a double shift, earns emergency callback pay at time and one-half for a minimum of two hours. The employee must limit total hours worked during the furlough week, including emergency callback hours, to the maximum allowable work hours if at all possible. If the emergency callback causes the employee's total hours worked to exceed the allowable hours, the number of hours worked over the allowable hours up to 40 hours must be furloughed in another workweek. Supervisors and managers need to closely monitor and approve emergency callback to control unnecessary overtime costs.

For more information, see the HR Advisory: Furloughs.

4.4 Non-Disciplinary Terminations

4.4.1 Reduction in Force

A "Reduction in Force (RIF)" occurs when the City ends the employment of a group or class of one or more employees (who are "laid off") for reasons related to changes in the organization, the availability of funds, or other reasons related to the effective operations of the City. Laid-off employees are not considered to have been terminated for performance or disciplinary reasons. Laid-off employees who have not completed their initial or extended probation period at the time they are laid off will not be eligible for any of the benefits set out in the RIF policy. Departments reducing their workforce pursuant to a RIF must develop a written RIF plan. The plan must use the following criteria, in the following order of priority:

- Departmental/Division goals.
- Employee productivity.
- Employee skills, knowledge, and abilities.
- Employee tenure.

RIF plans must be reviewed and approved by the Human Resources Department before employees are given notices that they will be laid off.

4.4.1.1 Reemployment Salary and Benefits for Laid-Off Employees

For an employee rehired as a regular employee within one year after being laid off, the Department director and Human Resources Director, or their

designees, will determine the salary for the rehired employee in the new position.

If an employee has completed his or her initial or extended probationary period prior to being laid off, and is reemployed by the City as a regular employee within one year, any uncompensated leave time he or she had accrued as of the date the employment ended will be restored and immediately available for use, in accordance with the policies applicable to the type of leave. Employees who are rehired more than one year after being laid off will be considered to be new hires with no right to any restoration of leave provided herein.

An employee who has completed his or her initial or extended probationary period at the time he or she is laid off will be compensated for unused leave as outlined in the Personnel Rules and Regulations.

An employee who is laid off and later reemployed by the City as a regular employee will have his or her pension benefits determined by the terms of the applicable retirement ordinance, which is subject to change.

4.4.2 Employee Resignation

Resignations should be in writing, signed by the employee, and must state the effective date of the resignation, which must be at least two weeks after the notice is given. A brief, signed statement identifying the effective date of the resignation is adequate. The reason(s) for resigning may be provided but is not necessary. Upon receipt of verbal or written notice of the employee's intention to resign, the department can accept the resignation notice by confirming, in writing, the employee's stated effective date of resignation, and the department will then begin processing the employee's termination.

Employees who do not provide at least two weeks' notice of intention to resign will not be eligible for rehire. Individuals who resign in lieu of termination or who are terminated for rule violations are not eligible for rehire.

When an employee provides notice of resignation, the City reserves the right to place the employee on administrative leave for all or any part of the period of time between when the notice was given and the effective date of resignation, instead of allowing the employee to continue working, whenever the Department determines that the best interests of the City, or the Department, warrant such action. The City may require the employee to use accrued leave in addition to administrative leave.

When an employee gives more than two weeks' notice of resignation, the City can either: 1) accept the resignation, effective on the date designated by the employee; or 2) reject the resignation and propose to the employee a different effective date of resignation. If the employee rejects the City's proposal, then the City can inform

the employee what their last day of work will be, and require the employee to use their accrued paid leave to cover the time between their last day of work and the effective date of resignation. If the employee does not have sufficient accrued leave to cover this period of time, the City will place the employee on administrative leave for the period of time from the date when the employee's accrued leave is exhausted until the effective date of the resignation. The Department should consult with the Human Resources Department before rejecting the employee's proposed resignation.

Nothing in this policy will prevent the City from terminating the employment of an employee after the employee has given notice of resignation, if the circumstances, either before or after the employee gave notice of resignation, warrant termination.

Failure to report to work in accordance with an employee's normal work schedule, or give proper notice regarding an absence during the time after the employee gives notice of intention to resign and the effective date of the resignation may be considered an unexcused absence, and may constitute job abandonment. Leave approved prior to the date the employee gave notice of intention to resign is exempt from this provision. Job abandonment is considered a voluntary resignation, but the employee will not be eligible for rehire. Individuals resigning in good standing are eligible to be rehired.

Any grievance or complaint being processed at the time of resignation or termination will not be processed and will be administratively closed. The City may continue to investigate the substance of the complaint, and take appropriate action if the City determines that such an investigation and action are in the City's best interests. If a complaint is formally filed with an external entity, the review of the complaint may be placed on hold or closed depending on the nature of the complaint and its disposition by the external entity. The employee's attempted or successful withdrawal of resignation does not give the employee access to the grievance and discrimination complaint procedures.

Individuals who want to withdraw a resignation must submit a written request to the Department Director explaining the reasons for the withdrawal. If the Department Director allows withdrawal of the resignation, the effective date of the withdrawal must be before the terminated employee's final pay and terminal leave payout occurs. Otherwise, the individual must follow the City's Reemployment policy to regain employment.

4.5 Termination Processing

Assigned department personnel are responsible for collecting City-issued property, such as the employee ID card, keys, cell phones and other items, during the termination process. A completed out-processing form should list the City property not returned and its cost. See HR Advisory: *Out Processing Terminating Employees* for more information.

A department's human resources coordinator or designee must notify the Human Resources Records Division in writing when an employee who had access to the personnel/payroll screens terminates, transfers or promotes and no longer should have access. The employee's access to the HRIS/Payroll system is removed from the system upon receiving the notification.

See *Benefits after Employment Termination* in Chapter 6 for information about how different types of termination affect various benefits.

4.5.1 Voluntary Termination

Individuals desiring reemployment within one year after leaving in good standing (voluntary separation with a satisfactory work record) may be rehired by their former department on a noncompetitive basis, if a vacant position in the classification exited is available. Rehired individuals have the same status as new employees. Any accrued leave time from prior City employment will not be restored upon reemployment. (This policy differs from reinstatement after involuntary separation. See *Reinstatement* in Chapter 14 in this manual for further information.) Reemployed individuals receive adjusted service dates to reflect their previous service with the City.

4.5.2 Involuntary Termination

Individuals involuntarily terminated for non-disciplinary reasons, such as inability to satisfactorily perform the job, medical reasons or as a layoff, are eligible to be considered for reemployment. Such cases are considered on a case-by-case basis by the Human Resources Director or designee. Individuals involuntarily terminated for work rule violations (disciplinary reasons) are not eligible for rehire.

See *Reinstatement* in Chapter 14 for the policy on the reinstatement of involuntarily terminated employees.

5. Leave

5.1 Purpose and Introduction

This chapter provides general guidelines for accruing, using and administration of different types of leave available to general City employees.

Employees who misuse or abuse any leave benefit are subject to appropriate disciplinary action, up to and including termination of employment.

For questions about this chapter, call the HR Manager for Benefits Administration.

5.2 Vacation Leave

The City of Fort Worth provides paid vacation leave to general employees who occupy a regular full-time or part-time nonelected position. Employees begin accruing vacation leave after they have worked a full pay period, but they cannot use any vacation leave until they have completed their initial probation period, or any extended probation period, unless the department director approves such use during the initial or extended probation period.

Employees cannot use more than 15 consecutive work days of vacation without written approval from their department director.

If a City-observed holiday occurs while an employee is on approved paid leave, it is counted as a paid holiday and no time is deducted from the employee's leave balance.

The operational needs of the department may require supervisors to request that employees explain the circumstances of their requested leave, so the supervisor can decide whether to approve the leave request. If requested, failure to provide information or documents concerning the requested leave could result in the denial of leave. Supervisors may rescind previously approved vacation leave because of work issues. The supervisor must consider the consequences to the employee of which the supervisor is aware (prepaid travel expenses, family issues, employee morale) compared to the operational needs of the department in deciding whether to deny or rescind requested leave.

Employees may only request time off if they have the associated leave time available. Employees with 400 or more hours of accrued vacation leave as of the beginning of the calendar year (January 1) must use at least 80 hours of vacation leave before the end of the calendar year (December 31). Failure to use at least 80 hours will result in the loss of accrued vacation leave in an amount equal to the difference between 80 hours and the total number of hours of vacation the employee used during the calendar year. This is generally referred to as the "use it or lose it" rule. Sell back of accrued vacation leave or donation of

leave will not count toward this "use it or lose it" requirement. What this means is that hours sold back are not included in the 80-hour usage requirement.

Department directors may contact the Human Resources Director to request a waiver of a specific "use it or lose it" provision. The requests should identify the business or work-related reasons why an employee was not able to use the leave that would be lost without the waiver. Special assignments, critical projects, or the employee being assigned to serve in a higher or unfamiliar capacity represent situations that may be acceptable business reasons for waivers. Time off work because of injury, illness or any type of extended absence is not an acceptable basis for a waiver. The decision of the Human Resources Director regarding whether to grant or deny the waiver is final.

Employees who retire, resign or are terminated (after completion of their initial probation) will be paid for all unused vacation leave. Employees will not accrue vacation leave for the pay period in which their termination or resignation is effective.

The chart below demonstrates the rate of vacation leave accrual for full-time employees:

*Tenure w/City (Years)	Accrual Rate Per Pay Period (Hours)	Accrual Rate Per Year **(Number of Days)
0-5	4.62	15
6-10	5.23	17
11-15	5.54	18
16-20	6.15	20
21+	7.08	23
<i>*An employee's Vacation Leave accrual rate changes at the beginning of the 6th, 11th, 16th, and 21st year of service with the City.</i>		
<i>**Based on eight-hour work days.</i>		

An employee with a break in service with the City of less than one year will be given an adjusted service date (which is considered a new date of employment). The adjusted service date will be determined by the Human Resources Department. The employee will be considered to have had continuous service with the City from the adjusted service date and will accrue vacation leave accordingly. A service break of more than one year cancels all previous service credit toward vacation accrual or any other leave accruals.

Part-time employees accrue Vacation Leave in the proportion that their work time compares to a regular 40-hour workweek. For example, a part-time employee who works 20 hours in a work week will accrue half as much Vacation Leave as an employee who is scheduled to work 40 hours in a work week.

5.3 Major Medical Sick Leave

The City provides major medical sick leave (MMSL) to general employees in full-time or part-time positions, and who are members of the Retirement Fund, and is available for use

after the employee completes their initial probationary period, or any extended probation period unless the Department director approves such use during the extended probation period.

MMSL is provided to recuperate from serious medical conditions, keep medical appointments related to prior use of MMSL for a serious medical condition, and to attend or plan funerals for, or mourn the loss of, immediate family members. An employee using MMSL to attend a funeral does not have to satisfy the requirements for using MMSL, set out in this section. MMSL cannot be used to take care of family members.

MMSL accrual begins at the end of the first full pay period. An employee can use MMSL when the employee must be off work for more than 56 consecutive work hours because of a medical condition. To access accrued MMSL, employees must first use 56 consecutive work hours of other accrued leave, such as vacation, short-term sick/family, personal holiday, compensatory time, and/or time off without pay. A “Certification of Health Care Provider for Employee's Serious Health Condition” form must be completed and returned to the department's Medical Records Custodian (MRC) before the employee can use MMSL.

An employee on MMSL shall keep the department's MRC informed about their condition or status and provide an anticipated return date, supported by pertinent documentation. The MRC will keep the employee's supervisor apprised of the employee's status in terms of returning to work, but shall not pass on information regarding the employee's medical condition, diagnoses, treatment (including medications) or prognosis. Employees on MMSL for more than 12 weeks, who have exhausted all available FMLA leave, and are unable or fail to return to work, will be referred to the City's Occupational and Health Services Division and be considered for the Employment Options program. The City will engage in an interactive process with any employee with a disability who is in this situation to determine if a reasonable accommodation is needed so the employee can return to work, consistent with the requirements of the Americans with Disabilities Act and corresponding Texas law.

Employees returning to work after being on MMSL who must be off within the next 12 months from the return to work date for continuation of care related to the initial medical condition have immediate access to MMSL. If continuation of care from the initial medical condition continues beyond this 12-month period, employees must use other forms of leave as applicable. A change in doctors does not reset to a new 12-month period; however, if an employee is diagnosed with a new, qualifying medical condition, then a new 12-month period does begin. Examples where immediate access to MMSL is allowed, following prior MMSL usage, include therapy sessions related to the initial medical event, follow-up corrective surgery, and treatment of complications from the initial medical event. Examples where immediate access would not be allowed include chronic conditions such as seizures and asthmatic or diabetic episodes.

Accrual of MMSL is not limited. Employees are not paid for unused MMSL at the time of retirement, resignation or termination. At retirement, accrued MMSL is added to an

employee's length of service by the Employee Retirement Fund, in accordance with the current retirement ordinance, which is subject to change. Service time is adjusted to exclude time-off without pay.

If an employee with a non-occupational injury or illness, who is using MMSL, has exhausted available FMLA leave and will not be able to return to work with or without reasonable accommodation, the employee may be laid off even if the employee has accrued MMSL or other personal leave available for use. (See *Return-to-Work Program* in Chapter 11 for layoff policy and *Final Pay at Termination or Retirement* in Chapter 2 for terminal leave pay.)

5.3.1 Funeral and Bereavement

An employee can use up to 24 hours of accrued MMSL per calendar year to attend or plan funerals for, or mourn the death of, an immediate family member who has died. MMSL can be used for funeral or bereavement only in connection with the death of an immediate family member. See the *Glossary* for the definition of "immediate family member." Probationary period employees can use MMSL for funerals only with department director approval. A Personnel Action Request (PAR) must be submitted to the Human Resources Records Section with an attached approval from a department director allowing funeral leave for employees in their initial or extended initial probationary period.

5.3.2 Major Medical Sick Leave Accrual Rates

5.3.2.1 Full-Time Employee Accrual Rates

The following chart sets out the rates of accrual of MMSL based on years of service:

Tenure w/City (Years)*	Accrual Rate Per Pay Period (Hours)	Accrual Rate Per Year (Number of Days)**
0-15	4.62	15
16-25	3.70	12
26+	2.16	7
*An employee's major medical sick leave accrual rate changes at the beginning of the 16th and 26th year of service with the City.		
**Based on an eight-hour work day.		

5.3.2.2 Part-Time Employee Accrual Rates

Part-time employees accrue MMSL in the proportion that their work time compares to a regular 40-hour workweek. For example, a part-time employee who works 20 hours in a work week will accrue half as much

MMSL as an employee who is scheduled to work 40 hours in a work week.

5.4 Short-Term Sick/Family Leave

Short-Term Sick/Family Leave (STS/F) is available to any general employee who is employed in a full-time or part-time position, is a member of the Fort Worth Employees' Retirement Fund, and has completed their initial probation, or extended probationary period.

STS/F can be used if an employee:

- Cannot perform assigned duties because of an illness or injury.
- Has a medical, dental, ocular, or other health care appointment.
- Needs to access major medical sick leave or workers' compensation benefits.
- Needs to provide care for an immediate family member with a serious health condition.

STS/F accrual is unlimited. Immediate family member under this policy is defined in the *Glossary*.

Supervisors may require documentation to verify the need for STS/F. When possible, the employee should use City forms for this purpose. If the documentation is determined to be inadequate, the employee will be given a reasonable amount of time to provide adequate documentation. Failure to timely provide documentation could result in the denial of leave and disciplinary action up to and including termination.

Employees who retire, resign or are terminated (after completion of their initial probation) are paid for all unused STS/F. Employees will not accrue STS/F for the pay period in which their termination or resignation is effective.

5.4.1 Short-Term Sick/Family Leave Accrual Rates

Accrual rates for STS/F for full-time general employees are:

*Tenure w/City (Years)	Accrual Rate Per Pay Period (Hours)	Accrual Rate Per Year **(Number of Days)
I. <i>General Employees (excluding City Manager, City Auditor, City Attorney, City Secretary and employees in selected Job Codes)</i>		
0-5	0.62	2
6-7	0.00	0
8-10	1.54	5
11-15	1.23	4

*Tenure w/City (Years)	Accrual Rate Per Pay Period (Hours)	Accrual Rate Per Year **(Number of Days)
16-20	1.54	5
21-25	0.62	2
26+	2.15	7
II. City Manager, City Auditor, City Attorney, City Secretary and employees in selected Job Codes		
0-5	2.15	7
6-10	1.54	5
11-15	1.23	4
16-20	1.54	5
21-25	0.62	2
26+	2.15	7
* An employee's STS/F Leave accrual rate will change at the beginning of the 6th year, the 8th year (For employees in Group I, above), and the 11th 16th, 21st, and 26th years of service with the City.		
**Based on eight-hour work days.		

Part-time employees accrue STS/F in the proportion that their work time compares to a regular 40-hour workweek. For example, a part-time employee who works 20 hours in a work week will accrue half as much STS/F as an employee who is scheduled to work 40 hours in a work week.

5.5 Old Sick Leave

Before implementation of personal leave and major medical sick leave in 1983, employees accrued sick leave, now referred to as "Old Sick Leave," which can be used for illness or injuries off the job. At the time of retirement, employees can be paid for up to 720 hours of Old Sick Leave. Any accrued Old Sick Leave above 720 hours is added to an employee's length of service for purposes of pension calculation. Employees who resign or terminate are not paid for Old Sick Leave when their employment ends. With regard to all other leave policies, Old Sick Leave is used the same as any other paid time off.

5.6 Family and Medical Leave Act

The Family and Medical Leave Act (FMLA) entitles eligible employees to take unpaid, job-protected leave for specified family and medical reasons. The Support for Injured Service Members Act of 2007 (also known as Military Family Leave) allows eligible employees to take up to 26 weeks of leave in any 12-month period. Applicable paid leave must be used concurrently with FMLA leave unless none is available. (See [*Family Medical and Leave Act*](#) in the HR Advisories for more information.) The 12-month period begins with the first day of FMLA leave. It is not based on the calendar year. The City

measures the 12-month period as a rolling 12-month period measured backward from the date an employee uses leave under this policy. When an employee takes FMLA leave, the City subtracts the time taken during the last 12 months from the available leave (12 weeks, or 26 weeks for the care of an injured or ill service member) to determine the balance remaining.

If an employee is on FMLA leave, the time an employee is off work because of illness (including the 56 hours off before accessing MMSL) counts towards the 12 weeks of FMLA-protected leave, no matter what type of leave the employee uses concurrently (e.g., unpaid, MMSL, vacation, etc.). Employees must be given notice by their department's HRC or designee that their time off is deemed to be FMLA-protected leave.

Employees who qualify for the protections of the Americans with Disabilities Act Amendments Act of 2008 (ADAAA), as amended, may request an extension (either paid or unpaid) of their leave of absence after FMLA leave is exhausted, as a reasonable accommodation. The Department director or designee will review each such request on a case-by-case basis, and confer with the City's ADA Coordinator before making a determination about whether the request for accommodation is reasonable. Please see HR Advisory: Family Medical Leave Act for additional process information.

5.7 Holidays

The City of Fort Worth observes a regular holiday schedule and also provides employees with personal holidays. When an employee is said to "observe" a holiday, this means the employee is not required to perform work that day, even though the employee is regularly scheduled to work that day.

5.7.1 Scheduled Holidays

The City of Fort Worth observes the following scheduled holidays:

- New Year's Day – January 1
- Martin Luther King's Birthday – the third Monday in January
- Memorial Day – the fourth Monday in May
- Independence Day – July 4
- Labor Day/September 11 Remembrance Day – the first Monday in September
- Thanksgiving Day and Thanksgiving Friday – the fourth Thursday in November and the following day - Friday
- Christmas Day – December 25

If New Year's Day, Independence Day and Christmas falls on a Saturday or Sunday, the City-observed day for that holiday will be the Friday before or the Monday after the actual holiday. Employees who are scheduled to work on the Saturday or Sunday on which the actual holiday falls will observe the holiday on the actual

calendar day of the holiday. Those employees who are not scheduled to work on the actual holiday will observe the holiday on the City-observed holiday date.

For all other scheduled holidays, falling on a Monday, Thursday or Friday, employees scheduled to work on the day of one of these holidays will observe the holiday on the day the City has designated.

A holiday calendar for employees will be established at the beginning of each calendar year setting out the dates for City-observed holidays and those that fall on Saturdays or Sundays. An employee cannot observe both the actual holiday that falls on a Saturday or Sunday and the City-observed holiday.

An employee can elect to earn up to eight hours of holiday leave instead of receiving holiday pay for the same number of hours. An employee who is not scheduled to work on an observed holiday will receive up to eight hours of holiday leave for the same number of hours the employee is off on the holiday. When holiday leave is taken, the hours used are treated like hours worked for the purpose of calculating eligibility for overtime.

5.7.2 Maximum Holiday Leave Accrual

Holiday leave accrual is limited to 128 hours. Maximum payment upon termination of employment or death is 128 hours.

5.7.3 Personal Holiday(s)

In addition to the scheduled holidays, general employees receive one personal holiday at the beginning of the calendar year. With supervisory approval, the personal holiday can be taken on any scheduled work day, and it may be taken in less than eight-hour increments. If it is not used before the end of the calendar year, it is forfeited.

New employees may not take a personal holiday during their initial probation. Employees whose initial or initial extended probationary period ends during pay period 26 do not receive a personal holiday until the next calendar year.

Personal holidays can also be awarded as recognition for reaching specific tenure thresholds based on adjusted service time. (See *Annual Employee Service Awards in Chapter 8* for further information.)

Employees who resign their employment or are involuntarily terminated will not be paid for unused personal holidays upon separation from employment with the City.

5.8 Leave of Absence Without Pay

A department director can authorize an employee to take a leave of absence without pay for reasons that benefit both the City and the employee. The employee must submit a written request for leave of absence without pay to the Department director or designee. It must outline the reasons for the leave and the amount of time requested. In extenuating circumstances, the request can be made verbally. The Department director or designee either approves or disapproves the request, explaining the decision in writing so as to be in compliance with the requirements of the FMLA, as applicable.

Department directors and their designees must be mindful that the Family and Medical Leave Act provides for up to 12 weeks of unpaid leave for circumstances covered by the Act. The availability of applicable FMLA Leave must be considered when reviewing requests for leaves of absence without pay.

Employees will not receive special pay, holiday pay, holiday accrual or accrue any leave benefits (vacation, short-term sick/family leave, major medical sick leave) while in a Leave of Absence Without Pay status. Special pays such as longevity pay and wellness pay will not be paid until the employee returns to work and is no longer in a Leave of Absence without Pay status.

Revocation of a leave of absence may occur if the reason for requesting the leave was misrepresented, or if the needs of the department justify the revocation.

Employees are encouraged to update their supervisors on their status and should discuss any changes to their circumstances with their supervisors to make adjustments to the terms of their leave of absence.

Failure to return to work when a leave of absence without pay expires can result in disciplinary action, up to and including termination.

Employee requests for time off without pay (other than a request for a leave-of-absence-without-pay that is granted by a Department director for the mutual benefit of the employee and the City), must be denied if the employee has appropriate and accrued leave or compensatory time available. (This provision does not apply to employees who are off on Military Leave in a without pay status. See *Paid Military Leave* below for information on the leave policy for employees on military leave.) If the supervisor approves time off work, the employee must use all of his or her accrued leave before being placed on a Leave of Absence Without Pay status. In such cases, the employee must decide whether to use their available accrued leave available or report to work.

If the supervisor denies the request and the employee does not come to work, the employee will not be paid and the employee can be disciplined for absence from work without approved leave. The employee's time off is then coded as disciplinary time off without pay.

Both exempt and nonexempt employees can be carried in a without-pay status for less than one day because of personal reasons or illness or injury when accrued leave is not used because:

- Permission to use leave time was not requested,
- The use of leave time was requested and denied, or
- There was no accrued leave time available.

5.9 Military Leave

The Uniformed Services Employment and Reemployment Rights Act (USERRA) encourages non-career military service by minimizing employment problems resulting from military service. It minimizes disruption of the lives of service members and prohibits discrimination against service members.

Under USERRA, employers cannot deny absences to employees so they can perform military service. Persons protected under the Act include persons who perform duty, voluntarily or involuntarily, in the "uniformed services," which include the Army, Navy, Marine Corps, Air Force, Coast Guard, and Public Health Service commissioned corps, as well as the reserve components of each of these services. Federal training or service in the Army National Guard and Air National Guard also gives rise to rights under USERRA. In addition, under the Public Health Security and Bioterrorism Response Act of 2002, certain disaster response work (and authorized training for such work) is considered "service in the uniformed services." Departments may request documentation, such as duty orders, to substantiate the use of military leave.

5.9.1 Paid Military Leave

Regular full-time, part-time, temporary and probationary employees can receive up to 15 work days of paid military leave per calendar year. If absent more than 15 work days for military duty, the employee may request to be placed on leave of absence without pay even if the employee has available leave or may use any accumulated vacation, holiday, personal holiday or compensatory time, if eligible, for leave hours in excess of the 15 work days. If an employee is placed on leave without pay, the employee does not accrue leave benefits during that time. Military supplement pay may be available upon annual City Council approval.

Military duties covered by the Act also include service and training conducted in connection with the Armed Forces Reserves and the National Guard. This includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, absence for an examination to determine fitness for duty, and absences for performing funeral honor duties. Both voluntary and involuntary duty are covered.

5.9.2 Reemployment Rights

If an employee leaves City service for active duty in the United States Armed Forces, the employee is entitled to return to City service at the pay rate they would have attained, with reasonable certainty, if they had been continuously employed during the period of service. The employee must have been granted a leave of absence and must return within prescribed time limits to a position in the classification previously held. The prescribed time limits are as follows:

- If training/service is up to 30 consecutive days, the deadline is completion of training/service plus travel time to residence plus eight hours.
- If training/service is 31 to 180 days, the deadline is 14 days after completion of training/service.
- If training/service is 181 days or more, the deadline is 90 days after completion of training/service.

If the leave was more than 30 consecutive days, the City requires that the employee provide documentation to establish that the re-employment application is timely, the employee has not exceeded the limit on duration of service, and the employee's separation or dismissal from the military was not disqualifying. The types of documents will vary from case to case, but may include Department of Defense (DD) 214 Certificate of Release or Discharge from Active Duty, copy of duty orders prepared by the facility where the orders were fulfilled, letter from the commanding officer, certificate of completion from military training school, discharge certificate showing character of service, or copy of extracts from payroll documents showing periods of service.

Employees are allowed to use their vacation and/or compensatory time while on military leave, but they are not required to do so. Federal law prohibits discrimination and/or retaliation against service members who invoke their rights to reemployment after military service.

5.9.2.1 Reemployment Rights Eligibility Criteria

Service personnel seeking reemployment must meet the following criteria:

- Held a civilian job when the employee commenced military duty covered by the Act.
- Gave notice to the City regarding absence for military training or service. Requests for leave under USERRA may be made verbally or in writing. The advance notice amount is not specified by the Act, but thirty days' notice is strongly recommended. As much advance notice as possible, written or verbal, is required, unless precluded by military necessity or otherwise impossible or unreasonable.

- Must not exceed the five-year cumulative limit (per employer) on service.
- Must not have been released from service under other than honorable conditions.
- Must report back to civilian job in a timely manner or make timely application for reemployment.

Military service or training excluded from the five-year cumulative limit includes:

- Instances where the service personnel is unable to obtain release from service/training before expiration of five-year period.
- Instances where it has been determined and certified by the Secretary of the service to be necessary for professional development or for completion of skills training or retraining.
- Involuntary active duty in wartime, national emergency, critical persons during time of crisis, operational mission, and involuntary duty of retired and reserve Coast Guard personnel.
- Active duty service during a war or a national emergency.
- Active duty service in support of a critical mission or requirement of the uniformed services.
- Service performed when called in Federal service as a National Guard member.

5.9.2.2 Reemployment Entitlements

The following reemployment entitlements are available for eligible service members:

- The re-employment of service members must be prompt.
- If absence is less than 90 days, the service member is entitled to placement into the exact job held prior to absence.
- If absence is 91 days or more, the service member is entitled to placement into the exact job previously held or another job of "like seniority, status, and pay."
- Continuation of seniority benefits as if service member had been continuously employed (no break in service).
- Train or re-train service member (if necessary) to permit reentry into the workplace.
- Reinstate personal and family health insurance coverage.
- Make reasonable efforts to accommodate service members disabled during duty. If a service member is convalescing from an illness or injury incurred in the performance of duty, the employee may submit an application for reemployment at the end of the recovery, not to exceed two years.

5.10 Jury Duty Leave

Only regular full-time, part-time, and probationary employees called to jury duty on a regularly scheduled work day may receive jury duty leave. Jury duty plus other hours worked in a work week shall never exceed 40 hours. When an employee has worked more than 40 hours in a work week, including jury duty hours, the time coded as jury duty must be reduced by the number of hours over 40 worked in that work week, even if that reduction eliminates all of the jury duty hours. Employees must verify their time spent on jury duty.

5.11 Healthy Challenge Pay and Leave Accrual

The Healthy Challenge Wellness Program offers pay and leave to employees, retirees or surviving spouses to maintain or improve their health. See *Healthy Challenge Pay and Leave Accrual* chapter 2 for more information about the program.

5.12 Blood Bank Donation Leave

Full-time and part-time employees can earn up to six hours of vacation leave or compensatory time in a calendar year by donating blood to the Carter Blood Center during City-sponsored blood drives or by presenting proof of a donation made at an external site. Temporary employees can receive up to six hours of compensatory time per calendar year for their blood donations. One hour of leave or compensatory time (at the employee's choice) is accrued for each pint of blood donated by the employee, up to a maximum of six hours. Proof of donation at external sites should be sent to the Human Resources Wellness Division to get credit.

5.13 Time off for Promotional Examinations and Interviews

Employees may take time off with pay to apply and compete for other positions with the City. Employees can use up to ten hours per calendar year for exams, interviews or to meet with City staff employees to discuss City career opportunities. The employee must obtain supervisory approval to take the time off for the examinations and interviews.

5.14 Time Off to Vote

Because of early voting opportunities afforded citizens, employees should not need time off to vote; however, supervisors may approve time off in unusual circumstances.

Under state law, if the polls are open for two consecutive hours outside of an employee's working hours, an employer is not required to release the employee from work to vote. If

the polls are not open for that period of time, employees are allowed to leave work to vote. Their time off is without pay or they may use appropriate accrued leave time or compensatory time.

5.15 Pregnancy Leave

Pregnancy-related absences and job accommodations are governed by the particular leave policies that are applicable, including major medical sick leave, vacation, short-term sick/family leave, holiday, personal holiday, compensatory leave, Family Medical Leave Act leave, Voluntary Leave Bank leave and leave without pay.

5.16 Voluntary Leave Bank

The Voluntary Leave Bank program provides for the continuation of income for those employees who have exhausted all of their accrued leave and need to be off due to a personal medical emergency or to care for an immediate family member who has had a medical emergency.

This program is established by employees for the benefit of other employees. Assets of the Program (donated leave hours) belong specifically to the members (who donated) and not to any other organization, group or entity.

To enroll or apply for the Voluntary Leave Bank, contact the Benefits Division of the Human Resources Department.

5.16.1 Eligibility for Enrollment

Employees who are eligible to participate include any full-time and part-time non-elected person who is on the payroll of the City, is a member of the Retirement Fund, and has completed the initial probationary period.

A newly hired employee may become a member of the Voluntary Leave Bank Program within the first 30 days of their employment, but the employee cannot access the Voluntary Leave Bank until completion of their initial probationary period. Employees who enroll during open enrollment cannot access the Voluntary Leave Bank until May 1st of the benefits year for which they are enrolling. An employee who fails to become a member during an open enrollment period may become a member during the next open enrollment period.

5.16.2 Eligibility for Use of Voluntary Leave Bank Hours

Members may be eligible to draw from the Voluntary Leave Bank after exhausting all their accrued leave balances, including major medical. Members drawing leave have a limit of 240 hours that can be used in any 12-month period. In no case can

an employee draw more than 240 hours from the Voluntary Leave Bank for any single occurrence.

Members of the Voluntary Leave Bank who are off without pay because of a disciplinary action or who are on approved leave of absence without pay are not eligible to access the Leave Bank. Members off work because of an on-the-job injury (Workers' Compensation) do not have access to the Voluntary Leave Bank. Routine medical care for an employee is not covered by this program.

Employees off work cannot accrue leave benefits (short-term sick/family leave, major medical, vacation, sick, family leave) while using Voluntary Leave Bank hours.

Members drawing leave from the Voluntary Leave Bank may not engage in secondary employment work during the time covered by the leave drawn from the Voluntary Leave Bank.

Use of Voluntary Leave Bank hours on an intermittent basis may be granted only if the Voluntary Leave Bank Committee approves intermittent use. The committee may also recommend or approve fewer hours than requested by the member.

Upon returning to work after using leave from the Voluntary Leave Bank, a member must donate eight hours to the Voluntary Leave Bank from their accrued vacation leave as soon as the member has accrued eight hours. Accrued vacation leave will reflect the required hours' deduction immediately upon the employee's return to work. Members who do not donate the required eight hours are dropped from the program. Future enrollment is restricted until the eight hours have been donated to the Leave Bank Program.

The City Manager may terminate the program if he or she determines that it is not in the best interest of the City of Fort Worth. If the Voluntary Leave Bank is terminated, for that reason, the remaining leave in the bank will be used until depleted. If the Voluntary Leave Bank is determined to be operated in violation of any laws, the program will be terminated, and all hours in the leave bank will be forfeited.

5.17 Vacation Leave Donations

Employees can transfer accrued vacation leave into another employee's donated leave account. No other type of leave or time may be transferred. The purpose of the transfer is to ensure continuing income for another employee who must be absent from work because of a major personal illness or injury or because of an immediate family member's major illness or injury which requires the presence of the employee.

An employee is eligible to receive donated vacation leave if:

- The employee has a major illness or injury as defined in this policy;
- The employee has 40 or less hours of accrued leave;
- The employee's department director approves the request to solicit vacation leave. (Consideration should be given to employee's record of absenteeism, discipline, work performance, tenure, and other relevant considerations); and
- The employee is not on initial, extended or disciplinary probation.

A major illness or injury includes any medical condition that qualifies under the short-term sick/family leave, family illness leave, and major medical sick leave policy. Appropriate medical certification must be provided for employees or equivalent documentation for immediate family members.

To be eligible to donate vacation leave, an employee must have completed the initial probation and must have a balance of 80 hours of accrued vacation leave after the donation. Donated vacation leave does not count toward the number of hours required that an employee must “use or lose” under the vacation leave policy.

5.18 Vacation Leave Sell Back

Employees may sell back up to 40 hours of Vacation Leave each year if they have a vacation leave balance of at least 120 hours left after their sellback, if authorized by the City Council in the City's budget. The vacation leave sell back is typically available to participating employees on the first pay day in December but this is subject to change.

5.19 Service Award Leave

See *Annual Employee Service Awards* in chapter 8 of this policy manual for information about leave associated with receiving a Service Award.

6. Benefits

6.1 Purpose and Introduction

The City of Fort Worth understands that the health and well-being of its employees and their families are vital to ensuring a strong, productive, and dedicated employee base. As such, the City currently offers a variety of benefits to eligible employees and retirees and their eligible dependents. This chapter will describe available benefits.

For questions about this chapter, please call the Benefits Manager in the Human Resources Department.

6.2 General Benefits Information

The City contributes toward the cost of some benefits, such as retirement, medical benefits, life insurance, and the Employee Assistance Program (EAP). In addition, the City makes other benefits available to employees, although the City does not contribute toward the cost; examples of these types of benefits include dental insurance and disability insurance.

More complete information regarding available benefits can be found by contacting the Benefits Division of the Human Resources Department or by consulting available benefits guides and plan summaries, and the [HR Benefits webpage](#). Benefits information is generally provided to each employee at orientation and is also available from Human Resources on request.

With very limited exceptions, the City can make changes to its benefit offerings at any time; these changes could include discontinuing benefit programs or changing the rates at which the City contributes toward benefit costs. In general, employee benefits, except for previously accrued retirement benefits, are not guaranteed to continue, and City contributions to any benefit program are subject to sufficient funds being available and allocated in the annual budget process.

6.3 Medical Benefits for Active Employees

The City provides medical benefits to eligible individuals in the form of a self-funded group medical plan, which is administered by a third party.

6.3.1 General Employee Group Medical Plan

The group medical plan provides coverage for qualified doctors' visits, hospital stays, and pharmaceuticals.

The participating employee and the City both contribute to the cost of participation. The participating employee may pay co-pays, deductible and a coinsurance depending on which plan option the participant selects. Available plan options include a high deductible health plan (HDHP) and ones that function similar to a health maintenance organization (HMO) and to a preferred provider organization (PPO).

6.3.2 Health Savings Account

An employee who enrolls in the City's high-deductible health plan (HDHP) is provided with a Health Savings Account (HSA) that can be used to pay eligible health care expenses. The City contributes to the employee's HSA in an amount determined by the City each year, and employees can also make contributions. Employee contributions may be deductible depending on the employee's individual circumstances and subject to maximum contribution limits set by the federal government. Employees are advised to contact a professional for assistance with tax-related questions.

An employee's HSA belongs to the employee, who can take the account with him or her on termination or retirement. Balances in the HSA can be carried forward from year to year.

Employees enrolled in the HDHP with an HSA are not eligible to participate in a Flexible Spending Account for health care expenses. (See section "Flexible Spending Accounts" below for more information.)

6.4 Flexible Spending Accounts for Active Employees

The Flexible Spending Account (FSA) Plan allows an employee to set up one or more accounts to pay for certain eligible expenses using pre-tax dollars. The FSA Plan is governed by Section 125 of the Internal Revenue Code. If participating in the FSA Plan, an employee will designate an amount to be deducted from wages and placed into the account(s) for use in paying for certain health care, dependent care, and adoption-related expenses.

Eligible expenses must be incurred during the plan year (January 1 through December 31), and all claims for reimbursement must be received on or before March 31 of the following year. If the entire balance of the account(s) is not exhausted by claims for reimbursement submitted before the deadline, the remaining balance in the account(s) will be lost.

An employee participating in the high-deductible health plan with a health savings account (HSA) is not eligible to participate in the FSA for health care expenses. (See section “Medical Benefits” above for more information.)

6.5 Dental Insurance for Active Employees

The City offers eligible individuals access to dental insurance offered by a third-party insurance company. Premiums for dental insurance are the sole responsibility of the participant and are deducted from wages on a pre-tax basis. The City does not contribute to the cost of participation.

6.6 Life Insurance for Active Employees

The City provides each active employee a basic term life insurance policy at no cost to the employee. Employees may purchase additional/supplemental life insurance through the City. The City does not contribute to the cost of the supplemental life insurance policy.

6.7 Employee Assistance Program (EAP) for Active Employees

The City offers an employee assistance program to all active employees and their dependents. The EAP offers individuals the opportunity to consult with professional service providers to help resolve personal problems. Services under the EAP are limited to a specified number of appointments per year. Ongoing assistance beyond the EAP limits may be available as part of the City’s medical benefits depending on the situation.

6.8 Critical Incident Stress Management (CISM) for Active Employees

In the event of a catastrophic incident at the workplace (such as a robbery, assault, or injury or death of an employee), the Employee Assistance Program (EAP) will make available an on-premises EAP provider of crisis counseling.

6.9 Wellness Services Program for Active Employees

The City of Fort Worth offers a Wellness Program to promote physical and mental health and wellbeing and to provide opportunities for increased health and wellbeing through education and positive lifestyle changes. Information about upcoming classes is included in the City’s electronic employee newsletter (The Roundup) and available through the Wellness Division of Human Resources.

6.9.1 Participation Guidelines

The following participation guidelines are intended to allow all employees to have equal access to Wellness program benefits and to maintain proper work coverage at all times.

Hours spent participating in a Wellness class or program do NOT count as hours worked. When programs/classes occur during work hours, participation is solely at the supervisor's discretion. However, supervisors are encouraged to allow an employee to flex his time and work additional hours during the same week in order to offset class participation time. The supervisor shall have discretion in approving or disapproving flex time participation, but special consideration should be paid to consistency in approvals and disapprovals for similarly situated employees.

Flex time will be granted only in cases where proper work coverage is maintained at all times. A supervisor has the right to rescind preapproved flex time if absenteeism or workload, whether unforeseen or scheduled, creates a need for employee coverage.

In the event that a section cannot allow all interested employees to participate due to the number of requests received, the supervisor will be responsible for maintaining a rotation list to ensure proper work coverage and equal participation opportunities for all employees.

Participation in wellness activities is voluntary, and therefore, the City is not liable for injuries sustained by employees during their participation in these activities. As a general reference, injuries that occur during non-pay status are not compensable. Non-pay status consists of time before work, after work, and non-paid time during the workday. Prior to participating in Wellness program physical activities, employees will be required to sign a liability release form. The signed release forms will be kept in employee personnel files.

Any flex time approved for Wellness participation may not alter the total number of hours to be worked in the employee's regular work week schedule. Any proposed changes in schedule for participation should be reviewed in advance by the appropriate timekeeping staff to ensure compliance with applicable work-hour laws.

6.10 Disability Insurance for Active Employees

Employees may elect to purchase long-term disability insurance through the City. The City does not contribute to the cost of long-term disability coverage.

6.11 Deferred Compensation Plan for Active Employees

The City offers a deferred compensation plan that allows an employee to direct that a portion of his or her wages be placed into a savings/investment account for use in retirement. This plan (also known as a “457 Plan” because it is subject to Section 457 of the Internal Revenue Code) is administered by a third party. Generally, the City does not contribute to the 457 Plan.

6.12 Other Voluntary Benefits for Active Employees

The City also offers employees access to certain other voluntary benefits. The City does not contribute to the cost of these other benefits. The City may continue to offer other voluntary benefit products in the future. Contact the Benefits Division of Human Resources to find out more about other voluntary benefits that may be available.

6.13 Benefits Effective Date

Medical benefit coverage and dental insurance coverage (if elected) begin (i) one month after an employee’s first day of work at the City or (ii) on the date of a “life-changing event” that is the basis for an existing employee electing to add coverage. (See *Electing and Changing Benefits* below for information on changes in coverage.)

Medical benefit coverage and dental insurance coverage end one month after the effective date of termination, unless special provisions are made for the coverage to continue. (See *Benefits after Employment Termination* below for more information on continuing coverage after termination.)

The effective date for other benefits will vary depending on the particular benefit and the rules of the third-party benefit provider or administrator.

6.14 Electing and Changing Benefits

As part of the orientation process, new employees are informed about all available benefit programs. Employees must make their selections at orientation or within 30 days of starting work with the City.

All City benefits operate on a “plan year” that runs from January 1st through December 31st. After initial selection, benefits can generally only be changed during the designated annual open-enrollment period, during which a participant elects their benefit options for the following plan year.

However, changes can be made outside of the open-enrollment period if a “life-changing event” occurs. Examples of “life-changing events” include marriage, divorce, birth or adoption of a child, death of a dependent, loss of outside group health coverage, and change in employment status. A full definition of the term can be found in the *Glossary*.

In general, a covered individual who wants to revise his or her benefits coverage because of a life changing event must do so within thirty (30) days of the event occurring. However, if the event is the birth or adoption of a child, an employee has up to sixty (60) days to make the election.

6.15 Proof of Dependent Eligibility

Proof of eligibility must be provided in order to enroll a dependent. In addition, the City periodically performs audits to ensure that all enrolled dependents meet eligibility criteria, and proof of eligibility may be required in connection with this type of audit.

Proof of eligibility may include social security numbers, birth certificates, hospital certificates of live birth, divorce decrees, adoption papers, guardianship papers, income tax returns, marriage licenses, domestic partner affidavits, or other reasonable documentation as requested by the City.

6.16 Benefits after Employment Termination

6.16.1 Medical Insurance after Termination

Medical coverage ends one month after an employee's effective date of termination, unless the employee is qualified to continue coverage and elects to continue coverage.

An employee who is either (i) receiving or (ii) in process to receive City of Fort Worth retirement benefits at the time of termination is eligible for medical coverage through the City in retirement. The employee has 60 days from termination date to enroll him/herself and eligible dependents into the medical benefits plan; failure to do so will prevent any enrollment in the future. An employee who is not (i) receiving or (ii) in process to receive City of Fort Worth retirement benefits at the time of termination is not eligible for medical coverage through the City. A retiree who drops medical coverage can never reenroll in the future. It is recommended that an employee notify the Benefits Division of Human Resources at least 60 days prior to the effective date of retirement to allow for a smooth transition.

An employee who began working at the City before January 1, 2009, and is either (i) receiving or (ii) in process to receive City of Fort Worth retirement benefits at the time of termination from the City, is provided access to medical benefits upon termination, and the City contributes toward the contribution costs. The amount of contribution varies depending on a number of factors. An employee who began working at the City on or after January 1, 2009, only has access to retiree medical coverage. The City does not contribute to medical benefit costs for such an individual, and he or she must pay 100 percent of the contribution costs in order to participate in the medical benefits plan.

Upon separating from the City an individual may elect to continue receiving medical coverage through COBRA. (See section *Continuing Coverage Under COBRA* below for further details.)

Healthcare coverage is not a contractual right, and the City makes no guarantee regarding future coverage. The City may change or discontinue health benefits for current employees and retirees at any time. Additionally, City contributions to medical coverage are not guaranteed and are contingent on sufficient funds being allocated in the City of Fort Worth's annual budget each fiscal year.

Refer to the applicable benefit guides or contact the Benefits Division of Human Resources to determine your eligibility for continuing medical coverage after termination or retirement.

6.16.2 Dental Insurance after Termination

An employee who is either (i) receiving or (ii) in process to receive City of Fort Worth retirement benefits at the time of termination may continue accessing third-party dental insurance through the City. The individual has 60 days from the date of termination to enroll him/herself and eligible dependents in the dental plan. In addition, a retiree has the option each year during the annual open enrollment period to add, change, or discontinue dental insurance. The City does not contribute to the cost of dental insurance.

6.16.3 Continuing Coverage after Termination under COBRA

Upon termination from the City, an individual may be eligible to obtain continued medical or dental insurance coverage for a limited period under COBRA if certain criteria are met.

The City's COBRA administrator will send all separated employees information about options available under COBRA within 14 days after the COBRA administrator receives notice of a former employee's separation from the City. Separated employees have 60 days after the date he/she receives the notice of the right to continue coverage to submit an application requesting COBRA coverage.

No City subsidy is provided for COBRA coverage.

6.16.4 Life Insurance after Termination

The City-provided basic life insurance coverage generally ends on the effective date of an individual's termination from the City. An individual can convert his or her City-provided life insurance policy to an individual policy in order to continue coverage after terminating from the City. The individual must call the life insurance provider or the Benefits Division to request the conversion form and information

about the cost of premiums. Completed conversion forms must be submitted within 31 days of the termination date.

An individual who is under the age of 60 and has been classified as being disabled from his/her own occupation on a permanent or temporary basis may have his/her life insurance premiums waived. If the premium waiver is granted, the individual retains the same level of basic term life insurance coverage at no cost.

Employees may contact the Human Resources Benefits Division for details about applying for a premium waiver.

6.16.5 Deferred Compensation Plan after Termination

If an employee is enrolled in the City's deferred compensation (i.e., 457 Plan) prior to termination, the employee has three options with respect to existing account balance:

- Leave the money in the current 457 account(s).
- Rollover all or a part of the funds to an individual retirement account (IRA) or to another employer's plan.
- Take a distribution (withdrawal) from the account(s), subject to any applicable tax and penalty.

An individual should contact the third-party administrator of his or her 457 account to ensure completion of all required paperwork prior to the employee's separation date.

An individual participating in the 457 Plan may request that all or a portion of terminal leave pay be deposited into the 457 account. Such a request must be received by the Human Resources Benefits Division prior to the effective date of the individual's separation from the City. Failure to timely submit a request will result in its rejection.

6.16.6 Flexible Spending Accounts after Termination

An employee who is participating in the Flexible Spending Account (FSA) Plan at the time of termination from the City can continue to incur eligible expenses chargeable to or reimbursable from that person's flexible spending account(s) through the effective date of termination.

If the individual timely elects to continue their FSA participation through COBRA, he or she will be able to continue to incur eligible expenses through December 31st of the year in which the individual terminates from the City.

All claims for reimbursement related to flexible spending accounts must be received on or before March 31st of the year following the year in which the expense was incurred

6.16.7 Voluntary Insurance and Benefits after Termination

Final premiums and contributions for all voluntary insurance and benefits are taken out as a payroll deduction from an individual's final pay. To continue coverage after termination, the individual must contact each benefit provider prior to termination to arrange for alternate billing.

6.16.8 Wellness Services Program for Retirees

The City of Fort Worth offers a Wellness Program for retirees on the City's health insurance (and their spouses) to promote physical and mental health and wellbeing and to provide opportunities for increased health and wellbeing through education and positive lifestyle changes. Information about upcoming classes is available through the Wellness Division of Human Resources.

7. Performance Management

7.1 Purpose and Introduction

The City's performance appraisal process is designed to provide supervisors a means to: (1) assess and document employees' work performance; (2) explain expectations; (3) determine whether employees' work efforts are meeting City and department goals; (4) inform employees if they have performance deficiencies and make suggestions for improvement; and (5) recognize exceptional performance and/or accomplishments.

For questions about this chapter, please call the Performance Management Office.

7.2 Performance Appraisal

It is the responsibility of the employee's supervisor to complete the performance appraisal. The official City appraisal form must be used. Failure to provide timely performance appraisals may result in disciplinary action being taken against the supervisor.

Prior to the beginning of the performance period, the supervisor should establish job objectives for the employee. The supervisor should meet with the employee to review the objectives, the performance standards to be used in evaluating the employee, and the way their job should be accomplished.

Every six months, the supervisor will prepare a performance appraisal for the employee. Performance appraisal ratings need to be well supported by the narrative feedback included in the appraisal and should be focused on behavioral observations rather than judgmental statements or feelings.

The supervisor will meet with the employee to discuss the performance appraisal. At the end of the meeting, the employee will be asked to sign the appraisal document. The employee's signature indicates the employee has acknowledged and received the evaluation, but does not necessarily indicate the employee's agreement with its content.

An employee may submit comments related to their evaluation within five business days from the date of receipt. Comments may be written directly on the form, or can be submitted on additional sheets, which will be attached to the document for filing.

If the performance appraisal indicates that performance improvement is required, the employee will be placed on a Performance Improvement Plan (PIP), which is a tool a supervisor can use to identify growth opportunities for employees and outline an action plan for improving performance. If the employee's job performance does not improve to a

satisfactory level during or by the end of the time limit specified in the PIP, the employee may be disciplined up to and including termination. Employees on a PIP are eligible for a performance-based pay increase. Please consult with the Employee Relations Division of the Human Resources Department before placing someone on a PIP.

7.3 Performance Management Cycle

Employees shall receive a performance review every six months, according to the schedule below. Shorter or longer cycles may be allowed depending on the employee's start date or other relevant organizational changes. New employees shall have a performance review when they have completed their initial six-month probation.

	Performance Period	Due Date	Performance Period	Due Date
General Employees	October 1 - March 31	April 30	April 1 - September 30	October 31

7.4 Transition from Probationary Review to Common Performance Review Schedule

After completing probation, an employee's review converts to the common six-month performance review cycle. New employees will usually have one appraisal cycle that will be either shorter or longer than six months based on date of hire.

Employees whose probationary review occurs between July 1 and December 31 will receive their next review in April, for the period ending on March 31. Employees whose probationary review occurs between January 1 and June 30 will receive their next review in October, for the period ending on September 30.

Month of Hire	Probationary Review Due	Next Review Period
January	July	July - March 31
February	August	August - March 31
March	September	September - March 31
April	October	October - March 31
May	November	November - March 31
June	December	December - March 31

July	January	January - Sept 30
August	February	Feb - Sept 30
September	March	March - Sept 30
October	April	April - Sept 30
November	May	May - Sept 30
December	June	June - Sept 30

7.5 Performance Pay Increases

A regular, full-time or part-time employee participating in the City's retirement fund may be eligible for pay increases dependent on their performance appraisal rating. Eligibility for performance pay increases is affected by the following:

- Employees who are on initial probation are not eligible for a performance increase until they have successfully completed their probationary period.
- Employees who are on disciplinary probation are not eligible for a performance increase during the evaluation period in which they started their disciplinary probation period.

Performance pay increases for eligible employees are subject to the funding in the fiscal year that the employee became eligible.

8. Employee Development, Incentives and Training

8.1 Purpose and Introduction

The City of Fort Worth is committed to the development and training of its employees and providing opportunities for professional and personal growth to promote the City's mission of "Working together to build a strong community." The City has a responsibility to provide programs that will strengthen and improve the knowledge, skills, and abilities necessary for employees to perform assigned functions, educate employees about City policies, encourage personal growth, and assist supervisors and employees in complying with policies, practices, and laws. Training needs are identified through discussions with supervisors and employees, surveys and feedback, observations, and critical needs. The City strives to evaluate and assess its training programs and opportunities on a continual basis to ensure that specified training needs are being met. Supervisors may also consider training and development activities in performance evaluations.

The City of Fort Worth desires to demonstrate its appreciation for its employees and provides incentives, when possible and appropriate, such as education reimbursement, certification pay, and assignment pay to assist employees who desire to enhance their productivity and effectiveness in performing their assigned duties.

General in-house and on-site training is provided by the Human Resources and/or Performance Management Departments. Funds may be made available in departmental budgets so that employees, with supervisory approval, can attend seminars, workshops, and training opportunities to develop and increase their work skills and abilities.

For questions about this chapter, call the HR Manager for Staffing Services.

8.2 Education Reimbursement Policy

The Education Reimbursement program addresses the City's commitment to employee growth and development. Reimbursed education must be directly related to an employee's current job or to a position with the City that requires the educational preparation. The Human Resources Department determines whether the courses taken are related or required as part of the job. Expenses related to law and religious degrees are not eligible for reimbursement, and other doctorate degrees are eligible for only partial reimbursement.

Funding for this program is subject to City Council approval and is limited to the fiscal year in which funds are budgeted. In years when the program is funded, employees will be reimbursed for eligible expenses on a first-come-first-served basis up to the individual employee cap until all budgeted funds have been exhausted. Remaining funds do not transfer into the subsequent fiscal year. The individual cap is explained in the Human Resources Advisory: Education Reimbursement Procedures.

Applicants must submit a completed application to a designated Human Resources Department representative for review, approval, and admittance to the reimbursement program. When the allocated fiscal year budget funds are exhausted, no additional applications will be approved. The approval of a course or a degree plan is not a guarantee of a promotion or obtaining a position that requires or uses the training.

8.2.1 Continuation of Employment and Reimbursement Payback Provision

If an employee resigns or is involuntarily terminated before completing a course, the City is not obligated to pay reimbursement. An employee who voluntarily terminates, resigns, or retires from the City after receiving reimbursement must pay back 100 percent of reimbursement received during the 12 months immediately preceding the date the employee's employment ended, and 50 percent of reimbursement received during the 13 to 24-month period before the date the employee's employment ended. An employee who is involuntarily terminated, or terminated because of a reduction in force, medical disability, or as a result of occupational injuries or illnesses is not required to pay back the money received for educational reimbursement and is not subject to the payback provision.

8.2.2 Eligibility Requirements for Education Reimbursement Program

An employee may qualify to receive reimbursement for one degree at each level: high school diploma or GED, associate, undergraduate (bachelors) and graduate (masters).

Doctorate level degrees (Ph.D.) are covered only if in a scientific field (chemistry, biology, forensics, etc.) and highly related to the employee's current classification with the approval of the City Manager or designee. Doctorate level degrees in Law (J.D.) are not covered. Undergraduate, graduate and doctorate-level degrees in religion are not covered.

The requirements for an employee to apply for education reimbursement are:

- Must be a regular, full-time employee participating in the City's retirement fund. Part-time, temporary, or seasonal employees are not eligible.
- Must have successfully completed their initial probation and any extended probation.

- Cannot currently be on disciplinary probation or have received a Performance Improvement Plan (PIP) during the most recent performance evaluation.
- Must have the approval of their supervisor and Human Resources before attending the course.

To be eligible for reimbursement for an undergraduate course, an employee must attain a course grade of “C” or higher in a graded course, or a “pass” grade in an ungraded course.

To be eligible for reimbursement for a graduate course, an employee must attain a grade of “B” or higher in a graded course, or a “pass” grade in an ungraded course.

All course work must be taken while off duty. When there is an unavoidable conflict between class and job responsibilities, a supervisor may make a reasonable effort to accommodate the class schedule. Any accommodation of an employee’s class schedule is at the supervisor’s discretion.

Courses that are not eligible for reimbursement under this program are: (1) Seminars and conferences that meet for two weeks or less; (2) Seminars, training and review courses that deal with professional certifications or licensing; (3) audited courses or for noncredit, continuing education courses for which there is no grade; and (4) credits obtained by the College Level Examination Program (CLEP).

Individual departments may reimburse employees for classes that are not eligible for reimbursement, such as short seminars, review courses or certifications, dependent on budgetary considerations and consistent with departmental policy and practice.

Fees and expenses other than tuition and mandatory, course-related fees, such as books, supplies, computers, tablets, parking fees, health insurance fees, and room and board, are excluded from reimbursement under this program.

Incomplete forms or forms without all required documents attached will not be processed. Forms and requests turned in beyond the published deadline will not be approved, processed or paid.

College programs such as mini-terms/sessions, distance learning or quarters that are not set on a semester basis are eligible for reimbursement if they are job-related or part of a degree program and are taken for credit. The employee must meet the established application deadline for the spring, fall or summer semester that precedes the course.

Courses must be taken at an accredited school, junior college, college, university, technical or trade school. (See Glossary for definition of accredited school.)

8.2.3 Administration, Payments and Maximum Reimbursement

Education Reimbursement is paid only once for each approved course. Reimbursements are made as soon as practicable after receipt of the required paperwork.

An employee who receives financial assistance for their education from another source must disclose the source and amount on the Education Reimbursement Application. The City does not pay for tuition and mandatory fees paid by other sources, such as scholarships, grants, Veterans benefits or other subsidies. Any employee who receives reimbursements from the City for expenses that were paid by other sources must pay back 100 percent of those funds before becoming eligible for any future reimbursements from the City.

The City's total education reimbursement cannot exceed the employee's education expenses.

8.2.4 Education Reimbursement Appeals

If an employee requests education reimbursement and the request is denied by the Department director, the employee can contact the Human Resources Manager for Staffing Services to try to resolve the dispute. The HR Manager for Staffing Services will discuss the dispute with the Human Resources Director. If the Human Resources Director disagrees with the Department director's decision to deny an employee's request for education reimbursement, the Department director and the Human Resources Director will work to reach a solution. If the requesting Department director and the Human Resources Director cannot agree, the Human Resources Director will discuss the appeal with the Assistant City Manager (ACM) of the requesting Department director. The final decision on the appeal is made by the ACM according to the provisions of this Education Reimbursement Policy.

8.3 Annual Employee Service Awards

The Annual Employee Service Award recognizes employees' tenure and dedication to service. One way to show this appreciation is by recognizing years of service with the City. Continuance of this and any employee recognition program is dependent on fund availability in each fiscal year's budget.

8.3.1 Eligibility

Part-time and full-time City employees participating in the City's retirement fund become eligible for Service Awards at five-year intervals beginning with their fifth anniversary. Awards are based on hours worked and must equal full-time service (e.g., if someone works 20 hours per week they would need to work 10 years to receive the five-year award).

8.3.2 Presentation

Employees eligible for a Service Award will receive from the City a Service Pin or equivalent award. The Service Pin or equivalent is presented by the employee's Department director or designee in a manner approved by the Department director.

Employees eligible for a 15-year Service Award, and at five-year intervals thereafter, are awarded one personal holiday at the beginning of the year in which they reach the service time milestone. The personal holiday must be used by the end of that calendar year. This is in addition to the personal holiday given to all regular employees as part of leave benefits. (See *Personal Holidays* policy in Chapter 5 for further information.)

9. Occupational Health & Safety Program

9.1 Program Purpose and Introduction

The City is committed to providing a safe and productive work environment and strives to protect all employees. This is accomplished through the City's Occupational Health & Safety Program which strives to save lives, prevent workplace injuries and illnesses, and protect the health and safety of all employees. This program provides guidelines for workplace safety and preventing illness and injury at work; governs compliance with safety-related policy and practice; prescribes training customized for avoidance of workplace dangers in different types of work environments; and enacts proactive measures to continually increase safety awareness and compliance according to observed trends.

For questions about this chapter, call the HR Manager for Occupational Health and Safety.

9.1.1 Role of Occupational Health & Safety Division, Human Resources

The Occupational Health & Safety Division (OHS) of the Human Resources Department administers the City's Occupational Health & Safety Program and establishes requirements, rules and procedures applicable to all employees for the effective administration of the program.

OHS has the authority to conduct routine accident investigations, safety inspections, and safety program audits to ensure program compliance, and to temporarily suspend work activities at any departmental employee work site that is deemed an imminent danger to the health and safety of employees.

9.1.2 Role of Department Director

In regards to the City's Occupational Health & Safety Program, department directors shall be responsible for the following:

- Appointing a professional-level employee to serve as the department's safety coordinator (DSC). Large departments that annually incur large numbers of accidents and injuries should appoint one or more qualified full-time safety professional(s).

- Develop and maintain a department-specific occupational health, safety and accident prevention plan(s) in accordance with OHS requirements.
- Include in the department's operating budget adequate funding for safety programs and training, personal protective and other safety equipment.
- Establish a department safety committee. Small departments may participate in a group safety committee organized by OHS with other departments.
- Establish a department accident review board. Small departments may participate in a group accident review board organized by OHS with other departments.

9.1.3 Department Safety Coordinator Responsibilities

After appointment by the department director, DSCs shall be responsible for the following components of the City's Occupational Health & Safety Program:

- Serve as the liaison between the department and OHS regarding employee occupational health and safety matters affecting the department.
- Assist the department director to develop and maintain the department's occupational health, safety and accident prevention plan(s) in accordance with OHS requirements. The department's plan(s) must be approved by OHS and by the Department director.
- Work with supervisors and managers to perform job safety analyses on hazardous equipment, hazardous work duties, and hazardous work sites.
- Provide and/or coordinate safety training and establish safety training schedules for departmental employees.
- Establish workplace safety inspection reports and schedules for the department.
- Serve as a professional safety resource to the department safety committee and the department's accident review board.
- Maintain all records of safety training, safety inspection reports, and accident investigation reports in accordance with OHS requirements and city records retention schedules.
- Provide quarterly and annual accident reports and statistics to the department director and department management team, to include suggestions for future accident prevention.

9.1.4 Authority of Department Safety Coordinators

DSCs shall have the authority to: conduct routine accident investigations; conduct safety inspections and safety program audits to ensure program compliance; require safety training for departmental employees; and temporarily suspend work activities at any departmental employee work site that is deemed an imminent danger to the health and safety of employees.

9.1.5 Role of Supervisors and Managers

9.1.5.1 Duties and Responsibilities for Ensuring a Safe Workplace

Supervisors and managers shall be responsible for the following in regards to the City's Occupational Health & Safety Program:

- Ensure that new employees receive an initial orientation regarding how to safely perform their job duties before the employee is allowed to perform the job. Supervisors shall not allow employees to perform work for which the employee has not received training for safe performance of the job.
- Provide repeat safety training to employees as necessary or required.
- Require employees to use and properly maintain safety equipment, including required personal protective equipment, safety apparel and work clothing. Supervisors and managers shall not require employees to work without appropriate equipment and apparel to safely perform the job.
- Require employees to maintain equipment according to manufacturer recommendations and recommended maintenance schedules.
- Require employees to visually inspect equipment prior to use.
- Require work zones to be properly marked for safety hazards prior to commencement of work by employees.
- Communicate to employees the requirement that employees must promptly report all accidents and injuries within 24 hours or the beginning of the next shift following the accident/injury. Supervisors shall obtain written acknowledgement from employees of this requirement on an annual basis at the time of annual performance evaluations.
- Hold employees accountable for their safety performance.
- Promptly investigate all accidents in accordance with established procedures and requirements.

- Notify the department safety coordinator within 24 hours of each accident and injury to subordinate employees. If the injury is serious, notify the safety coordinator at the time of the accident.
- Notify the citywide safety coordinator or OHS manager immediately of any serious accident and/or life-threatening injury to subordinate employees.
- Attend all required safety training.
- Consistently serve as a role model for safe work behavior at all times.

9.1.5.2 Supervisors' and Managers' Accountability for Safety

Any manager or supervisor who fails to train and instruct their employees regarding safety policies, standards, regulations, rules, procedures, processes and commonly accepted safe work practices is subject to disciplinary action up to and including termination.

Any manager or supervisor who fails to require their employees to use required safety equipment, including personal protective equipment, is subject to disciplinary action up to and including termination.

9.1.6 Role and Responsibilities of Employees

City employees shall be responsible for the following in regards to the City's Occupational Health & Safety program:

- Know, understand, and follow safety regulations and rules that apply to the employee's job and the work being performed.
- Attend all required safety training.
- Wear personal protective equipment and work clothing required for safe job performance.
- Use other safety equipment, apparatuses and devices provided for safe job performance.
- Maintain assigned equipment according to recommended maintenance instructions and maintenance schedules.
- Possess a valid State of Texas driver's license required for the type of vehicle to be operated, if required by the employee's position or job functions. Human Resources shall conduct semi-annual (twice per year) driver's license records checks with the Texas Department of Public Safety to identify employees whose

license is suspended or revoked. Employees who fail to maintain and possess a valid Texas driver's license shall be subject to disciplinary action up to and including termination from employment.

- Obtain, maintain and possess personal automobile insurance coverage if the employee drives his/her personally owned vehicle in the performance of City business. In the event of a vehicle accident involving an employee's use of his/her personal vehicle while on City business, the City shall look first to the employee's personal auto insurance coverage for liability coverage.
- If the employee drives a City vehicle or personally owned vehicle in the course and scope of the employee's job duties, the employee must complete a Defensive Driving course at least every three years.
- Report immediately all hazards, unsafe conditions, unsafe equipment and unsafe acts of others to a supervisor, manager, department safety coordinator, or to OHS.
- Report all accidents and injuries in which the employee is involved or that the employee observes or learns of, to a supervisor or manager. The report of an accident or injury must occur within 24 hours, or at the beginning of the next shift.

9.1.6.1 Employee Accountability for Safety

Each employee of the city is accountable for safely performing their job. If the employee is doing the job correctly, then the employee is doing the job safely. An employee who fails to observe and follow safety policies, standards, regulations, rules, procedures, processes and commonly accepted safe work practices is subject to disciplinary action up to and including termination. An employee who fails to use safety equipment provided, including personal protective equipment, is subject to disciplinary action up to and including termination.

9.2 Occupational Health and Safety Rules, Regulations and Requirements

9.2.1 Occupational Health and Safety Regulations

The City recognizes and follows the regulations below as primary standards and rules for workplace safety of employees:

- Title 29, Code of Federal Regulations, Occupational Safety and Health Act of 1970; Part 1910 for General Industry; and Part 1926 for the Construction Industry (Commonly referred to as the OSHA Standards)
<http://www.osha.gov/law-regs.html>

- Regulations passed under the Commercial Vehicle Safety Act of 1986, Title 49, Code of Federal Regulations (CFR), Part 380 Special Training Requirements, Part 382 Controlled Substances and Alcohol Use and Testing, Part 383 Commercial Driver's License Standards, and Part 384 State Compliance with Commercial Driver's License Program. <http://www.fmcsa.dot.gov/regulations/title49/b/5/3>
- The Texas Commercial Driver License Act of 1989, as codified in the Chapter 522 of the Texas Transportation Code, as amended. <http://www.statutes.legis.state.tx.us/Docs/TN/htm/TN.522.htm>

OHS may identify other regulations and standards and/or may develop and maintain other similar standards, regulations, rules and procedures as necessary to supplement OSHA standards for the health and safety of City employees. City employees, supervisors and managers shall follow these standards, regulations, rules and procedures unless a specific standard or regulation is waived by OHS.

9.2.2 Occupational Health, Safety and Accident Prevention Program

OHS shall develop, maintain and implement a citywide occupational health, safety and accident-prevention program and plan that includes the major elements of an effective program as identified in the federal Occupational Safety and Health Administration's (OSHA) "Safety and Health Program Management Voluntary Guidelines." OHS may develop procedures and processes as necessary for the effective administration and implementation of the Citywide Occupational Health, Safety and Accident Prevention Program.

All City departments and all City employees shall support and follow the Citywide Occupational Health, Safety and Accident Prevention Program plan and subsequent procedures and processes developed by OHS. City departments shall also develop, maintain and implement health and safety programs and plans, consistent with the OHS Citywide Occupational Health, Safety and Accident Prevention Program, that address hazardous conditions to which employees of the department are routinely exposed in the performance of their jobs.

9.2.3 Requirements Related to Illnesses and Communicable Diseases

9.2.3.1 Assisting Employees Who Become Ill at Work

Employees who become ill at work should be attended to immediately. If the employee's medical condition is potentially serious or life threatening, the attending personnel will immediately call 911.

In nonemergency situations when the employee cannot continue working, the employee should seek medical attention from a doctor or hospital of his or her choice. If the employee requests assistance, the supervisor or designee must assist

the employee in contacting the employee's designated emergency contact to arrange transportation for the employee. It is the employee's responsibility to seek assistance for arranging such transportation. If transportation cannot be arranged through the emergency contact, a supervisor or designee must arrange for transportation of the employee to his or her residence or to another location designated by the employee.

9.2.3.2 Contagious and Communicable Diseases

The City follows the recommendations promulgated and published by the U.S. Centers for Disease Control (CDC), Tarrant County Health Authority, and/or the City's occupational health services contractor.

The City reviews each communicable disease situation on an individual case-by-case basis.

Employees who contract a contagious disease that may be transmitted from one person to another via work-related contact may be required by the Department director or OHS to leave the workplace and remain off work until such time that the infected employee may no longer transmit the disease to another person via work-related contact. The Department director may require the employee to provide to the department Medical Records Custodian (MRC) a medical release from a medical doctor before allowing the employee to return to work.

9.2.3.3 Occupational Health Services

OHS contracts with a qualified occupational health services provider for such services that are required to be provided to City employees. Employees shall use the contracted service provider for services required by and paid for by the City. Individual requests for services are coordinated through each department's MRC.

10. Occupational Injury Benefits Program

10.1 Purpose

The City strives to ensure that employees who are injured in the course and scope of performing their jobs are provided available supports and assistance toward the goal of returning to work as healthy and as quickly as possible. This policy will provide information on resources available in such situations. City employees may be eligible to receive workers' compensation medical benefits and income benefits if injured in the course and scope of performing their jobs.

The City of Fort Worth's workers' compensation program is a self-insured workers' compensation program as defined by the Labor Code, §504.011(1). The City provides workers' compensation benefits to employees in accordance with the Labor Code and Administrative Rules (Admin. Rules) adopted by the Texas Department of Insurance, Division of Workers' Compensation (DWC).

The Occupational Injury Benefits Program applies only to compensable injuries sustained in the course and scope of employment. Injuries that are not compensable are considered non-occupational injuries. Compensability of injuries and payment of workers' compensation benefits are governed by the Labor Code and the Admin. Rules (Please see *Glossary* for applicable definitions of terms used in this Chapter).

For questions about this chapter, call the HR Manager for Occupational Health and Safety.

10.2 Duties, Responsibilities, and Authority within the Occupational Injury Benefits Program

10.2.1 Role of Occupational Health & Safety Division

The Occupational Injury Benefits Program is administered by the Occupational Health and Safety/Workers' Compensation Division (OHS) of the Human Resources Department. OHS establishes requirements, rules and procedures for the effective administration of the program.

10.2.2 Role of Department Director

Department directors shall appoint a professional-level employee and an alternate as the department's Workers' Compensation Coordinator (WCC) who shall serve as the department's single point of contact for workers' compensation and return-to-work coordination purposes.

10.2.3 Role of Workers' Compensation Coordinator (WCC)

Department WCCs shall be responsible for the following in regards to the City's Occupational Injury Benefits Program:

- Coordinate with OHS, the Third Party Administrator (TPA), and injured departmental employees and their supervisors regarding the City's occupational injury benefits and return-to-work programs, and report issues and problems promptly to OHS for resolution.
- Obtain information from injured employees, coworkers and their supervisors that is required by state workers' compensation laws and regulations and as required by the city's Personnel Rules and Regulations (PRRs) and OHS procedures to establish, investigate, and manage claims for workers' compensation benefits; and timely report such information as required on forms and by state law, the PRRs and OHS.
- Contact injured employees prior to follow-up doctor appointments to remind them (1) of the appointment, and (2) that they must provide a completed DWC-73 to the WCC following the appointment.
- Monitor claims while employees are receiving occupational injury leave benefits; monitor injured employees' on-going eligibility to receive Disability Supplement Pay (DSP).
- Serve as or assist the department/division timekeeper with records and dates pertaining to injured employees' lost time and/or limited-duty time to ensure that time and attendance records accurately reflect periods of lost time and limited duty as determined by the claims adjuster handling the workers' compensation claim and/or OHS; assist the timekeeper with records and dates pertaining to the payment of DSP in accordance with the PRRs.
- Recoup any overpayments to injured employees/claimants according to procedures established by OHS and Payroll.
- In accordance with the rules and instructions from OHS, post in the workplace and maintain all DWC required notices relating to workers' compensation.
- Provide quarterly and annual reports to the department director and department management that summarize employee injuries and claims of the department.
- Monitor and track an injured employee's health care appointment attendance and inform the MRC (as needed) if an employee fails to attend a health care appointment.

10.2.4 Authority of Workers' Compensation Coordinators

In regards to the City's Occupational Injury Benefits Program, Departmental WCCs shall have the authority to:

- Require employees and supervisors to provide required information and to complete and file such forms as necessary to comply with the Labor Code, Admin. Rules, city PRRs, and OHS procedures; and
- Report non-compliance by employees and supervisors to departmental management and to OHS.

10.2.4.1 Authority of Medical Records Custodians

Department Medical Records Custodians (MRCs) shall be responsible for the following in regards to the City's Occupational Injury Benefits Program:

- Coordinate with the department's WCC and injured/ill departmental employees and their supervisors regarding the protection of the confidentiality of medical records received by the City;
- Receive, maintain and retain employee medical records and information, as well as maintain the confidentiality and proper release of such records and information in accordance with the City's Administrative Regulation - *Protection of Medical Information* (<http://www.cfwnet.org/CityDocs/ARs/d10medicalinfo.pdf>);
- Promptly provide workers' compensation medical records to OHS as required by the personnel rules and regulations and by OHS procedures; and
- Ensure FMLA leave is designated and runs concurrently with occupational injury leave as applicable and available.

10.2.5 Role of Supervisors and Managers

In regards to the Occupational Injury Benefits Program, supervisors and managers are responsible for communicating to employees that they are required to report all accidents and injuries to a supervisor or manager within 24 hours or at the beginning of the employee's next shift. This communication can be done through such means as departmental policy, staff meetings, departmental training opportunities, or other means as effective per business needs. Written employee acknowledgement regarding this notification requirement will be obtained when employees are initially hired and should be renewed on a regular basis (e.g., annually or bi-annually) by supervisors or managers.

When notified by an employee that an injury has occurred, supervisors and managers must complete the Employer's First Report of Injury form (DWC-1) the same day of the injury or at the beginning of the next shift. Notification by the employee may be either verbal or in writing. The supervisor or manager, rather than the employee, must complete the DWC-1, and submit the DWC-1 to the department's WCC.

If medical treatment is sought by the employee, supervisors and managers must require the injured employee to submit a completed, signed DWC-73 "Work Status Report" to the department's MRC and/or WCC following each medical examination visit to a workers' compensation examining doctor. The DWC-73 is not required when the employee is taken to a hospital emergency room or is admitted to a hospital. However, a medical release from the hospital that specifies the patient's work status is required in place of the DWC-73.

Supervisors and managers are required to provide limited duty assignments to employees, if such assignments are available, when an employee is released by an examining doctor to return to work with restrictions, and ensure that duties being performed while an employee is on limited duty are within the examining doctor's identified restrictions. The supervisor or manager will work with the WCC to provide a bona fide offer of employment to the return-to-work employee if there are physical/medical restrictions.

10.2.6 Employees' Rights and Responsibilities

In regards to the City's Occupational Injury Benefits Program, employees are responsible for timely reporting any injury that occurs in course and scope of performing their jobs and complying with required appointments, communication with their department, and providing pertinent documentation or information in a timely manner.

10.2.6.1 State of Texas Workers' Compensation Requirements for Employees

In summary, the State of Texas has established the following specific requirements that injured employees must follow in order to qualify for workers' compensation benefits.

Notification Requirement. The employee must notify a supervisor or manager within 30 days of injury. Notification may be either verbal or in writing. If notification is not received within 30 days from the date of injury, the employee's claim for workers' compensation benefits may be denied. The date of injury for an occupational disease is the date the employee knew or should have known that the disease (injury) may be related to their job.

Claim-Filing Requirement. The employee must file form DWC-41, “Employee’s Claim for Compensation for a Work-Related Injury or Occupational Disease” within one (1) year of the date of injury or within one year of the date the employee knew or should have known an occupational disease may be work related. This form must be filed with the DWC at the address provided on the form. If the DWC-41 is not received by DWC within one (1) year from the date of injury, the employee’s claim for workers’ compensation benefits may be denied. Details of the State of Texas workers compensation requirements and regulations are located at the following links:

- Texas Labor Code: <http://www.statutes.legis.state.tx.us/>
- Texas Administrative Code, Title 28:
[http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac_view=3&ti=28&pt=2](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=3&ti=28&pt=2)

10.2.6.2 City of Fort Worth Workers’ Compensation Requirements for Injured Employees

The City of Fort Worth has established the following requirements and procedures that an employee with an on-the-job injury must follow. An injured city employee must:

- Comply with the Labor Code, Admin Rules, and city PRRs for workers’ compensation.
- Complete and sign the City’s notice of injury form, “Employee’s Report of Injury to the City of Fort Worth.” Submit the form to the WCC within 24 hours of the date of injury, or at the beginning of the employee’s next shift (if the 24-hour window falls outside normal business hours such as on a weekend or holiday, or on a day the employee is not scheduled to work).
- Complete and sign the City’s “*Authorization to Release Medical Information*” form. Complete the form within 24 hours of the date of injury, or at the beginning of the employee’s next shift. Submit the form to the department’s WCC.
- Attend all scheduled health care provider appointments unless good cause exists for not attending. The employee must notify the health care provider and the department’s WCC if unable to attend a scheduled health care provider appointment prior to the appointment time, if possible.
- Provide DWC-73 form completed by an examining doctor to the WCC following each doctor appointment. The DWC-73 form should be turned in on the same day as the doctor appointment or, if not possible, on the next business day.
- Attend all dispute resolution hearings and medical appointments scheduled by DWC, unless good cause exists for not attending.

10.2.6.3 Working a Second Job While on Workers' Compensation

An employee who is taken off work by an examining doctor may not work a second job and at the same time be paid workers' compensation income benefits and/or city disability supplement pay. Working a second job and receiving workers' compensation income benefits may be considered a willful and intentional attempt by the injured employee to fraudulently obtain workers' compensation benefits. The injured employee may be in violation of the pertinent Labor Code provision and may be subject to administrative penalties and fines from the Texas Department of Insurance, Division of Insurance, and could be ordered to pay restitution for benefits received. In addition, an employee who works a second job while on workers' compensation shall not receive disability supplement pay (DSP) from the City. Requests for a waiver from the requirements of this section should be directed first to the employee's Department Director. If the Department Director determines that the request for a waiver is justified, he or she will forward the waiver request to the Human Resources Director, who will approve or deny the request. If the Department Director determines that the request for a waiver is not justified, no waiver will be submitted to the Human Resources Director.

10.2.6.4 Workers' Compensation Benefits Coverage for Off-Duty Employees

This section applies to rare instances where an off-duty non-civil service employee may have the opportunity to save a person's life or to limit personal injury to a person. This policy does not create a duty to take action. Employees should carefully consider other alternatives prior to taking action that might result in their own injury or death.

Employees who respond to an imminent threat to life or physical well-being, while off duty, will be considered acting within the course and scope of their employment with the City of Fort Worth, and therefore, will be eligible for compensation and/or benefits, in the event of their injury or death while taking such action, as deemed appropriate by the City Manager, if:

- 1) the activity engaged in involves duties performed during their regularly assigned duties with the City;
- 2) the activity engaged in is not being performed while serving another entity, whether compensated for such service or not; and
- 3) the activity is performed within the corporate city limits of Fort Worth.

City Marshals, because of their peace officer certification, have a broader coverage in their off-duty activities, as outlined in the City Marshal's Office General Orders. In general, off-duty City Marshals will be considered to be within the course and scope of their employment with the City of Fort Worth if they are:

- Performing law enforcement actions required or permitted pursuant to State law and consistent with General Orders, directives and training of the Fort Worth Marshal's Office; or,
- Responding to imminent threats to life or physical well-being in a manner that is the same or similar to that provided by the Fort Worth Marshal's Office and consistent with General Orders, directives and training of the Fort Worth Marshal's Office.

10.2.6.5 Compliance

An employee's failure to comply with state law and/or the City's policies regarding Workers' Compensation may result in the suspension or denial of DSP benefits, and/or may result in disciplinary action up to and including termination in accordance with city personnel policies and procedures.

10.3 Disability Supplement Pay (DSP)

General employees receiving workers' compensation temporary income benefits (TIBS) under the Labor Code may also be eligible to receive disability supplement pay (DSP) from the City.

To qualify for DSP and to maintain eligibility to continue receiving DSP an employee must not be:

- a temporary, part-time or seasonal employee;
- in the initial employment probationary period or an extension of the initial probationary period; or
- on disciplinary probation.

To remain eligible to receive DSP, an employee must comply with all provisions of the preceding sections entitled *City of Fort Worth Workers' Compensation Requirements for Injured Employees*, and *Working a Second Job While on Workers' Compensation*.

The amount of DSP an employee may be eligible to receive is based on the following:

LENGTH OF SERVICE	DSP AMOUNT CALCULATION
Within the initial or extended	Not Eligible

probationary period	
From the end of initial or extended probationary period to five (5) years of service	50% of Normal pay minus Weekly TIBS Formula: $(REG \times .50) - TIBS = DSP$
Five (5) years to ten (10) years of service	75% of Normal pay minus Weekly TIBS Formula: $(REG \times .75) - TIBS = DSP$
Ten (10) or more years of service	100% of Normal pay minus Weekly TIBS Formula: $(REG \times 1.00) - TIBS = DSP$

DSP shall be paid based on the injured employee's normally scheduled hours. Except for City Marshals, DSP begins after the TIBS waiting period of the first seven days of lost time. The employee must use accrued leave (e.g. vacation, compensatory time, short term sick/family leave) for normally scheduled hours during the TIBS waiting period. If accrued leave is not available, the employee is placed on unpaid leave of absence.

An employee must coordinate with their workers' compensation coordinator (WCC) to use accrued leave to supplement their pay up to the normal weekly gross pay. The combination of DSP plus workers' compensation TIBS plus accrued personal leave benefits cannot exceed an employee's normal pay in any week of a pay period. If an employee is overpaid by the city for DSP, or is overpaid by a combination of DSP and income benefits from the TPA that exceed the employee's normal pay, the employee must agree with the department to a reimbursement schedule and reimburse the city for the overpayment.

An employee who is not eligible to receive DSP or whose payroll deductions exceed the combined DSP and accrued leave usage amount is placed in an "arrears status" for the employee's portion of health insurance premiums, credit union loans, and other such authorized payroll deduction, or the employee must make other arrangements for payments while on leave without pay. The deductions placed in arrears will be continued when the employee returns to work per the conditions set forth in the repayment agreement. All normal paycheck deductions (e.g., taxes, health and dental insurance premiums, court ordered child support, and picked-up retirement contributions) will continue to be deducted from disability supplement pay.

If there are overpayments of disability supplement pay, regardless of cause, the amount of the overpayments will be recovered in whole or in partial payments from future pay checks, as agreed upon by the department and the employee and set forth in a repayment agreement. The recovery may begin while the employee is on lost time or limited duty. In no case will such a recovery reduce an employee's pay check so that he or she would be paid less than minimum wage for the hours actually worked. Overpayments of income benefits made by the TPA shall be recovered by the TPA from future income benefits.

10.4 Time and Attendance Rules for Workers' Compensation Employees

The following time reporting rules apply to employees receiving workers' compensation medical and/or income benefits for a compensable injury.

10.4.1 Day of Injury

The day of injury is a full day of normal pay at the employee's normal pay rate. If the shift carries over into the next day, time is recorded as normal pay for the entire shift.

The injured employee must use accrued leave for normal scheduled hours during the TIBS waiting period, except for City Marshals who receive DSP at normal pay for normal scheduled hours during the TIBS waiting period. If accrued leave is not available during the TIBS waiting period, the employee will be placed on leave without pay during the TIBS waiting period.

10.4.2 Lost Time

Lost time is time away from work because of a compensable on-the-job injury.

DSP shall begin after the TIBS seven-day waiting period has expired. DSP ends at the first occurrence of the following:

- when the employee reaches Maximum Medical Improvement (MMI);
- when the employee is returned to work in either full duty or limited duty capacity; or
- when the employee has 365 days (cumulative) of lost work time.

The employee may use available accrued leave to further supplement the employee's TIBS and DSP, up to the gross amount of the employee's normal pay.

If accrued major medical sick leave (MMSL) is used to supplement TIBS and DSP, the employee must use 56 consecutive hours of other available accrued leave and/or leave without pay before MMSL may be used. The 56 hours must be applied to normally scheduled hours. See *Major Medical Sick Leave* policy in chapter 5 for further information.

The employee continues to accrue all leave while on lost time for a compensable injury. An employee off work for a compensable injury accrues vacation leave and sick leave, but does not accrue holiday leave or receive holiday pay. The employee shall not earn special pays while on lost time for a compensable injury.

An employee who is off work for more than three consecutive work days will be notified by their MRC that the absence will be reported as FMLA leave. FMLA leave will run concurrently with lost time for a compensable injury. See *Family Medical Leave Act* policy in Chapter 5 and related HR Advisory for further information.

DSP shall not be paid on furlough days.

While on lost time, an employee cannot use workers' compensation leave (WCL) to attend doctor appointments.

10.4.3 Limited Duty for a Compensable Injury

An employee working in a limited duty assignment must record their work time as limited duty (LDU) hours if restrictions or limitations to duty are specified by an examining doctor. While on limited duty, an employee cannot work overtime, cannot earn overtime pay or compensatory time, and cannot be on call or stand-by duty. An employee on limited duty may use available accrued leave in accordance with normal leave request procedures.

If an employee who has been released to return to work takes a prescription drug prescribed by an examining doctor that adversely affects the employee's job performance, or the safety of the employee or others, the employee must either not come to work and utilize their department's absence notification procedures, or leave the workplace after notifying their supervisor, and must use available accrued leave. If accrued leave is not available, the employee will be placed on leave of absence without pay.

10.4.4 Workers' Compensation Leave (WCL)

An employee who is on limited duty or who has returned to full duty is allowed two hours per day of WCL from work, including travel time, to attend a health care appointment related to the compensable injury. Additional time may be allowed if the employee provides proof from the health care provider justifying the additional time. Such proof must state the time of arrival at the appointment and the departure time. In no event will WCL exceed four (4) hours in one day.

If the employee works a night shift, the employee is allowed WCL during the day to attend a doctor or other health care provider appointment for a compensable injury. In addition, the employee may receive the appropriate shift differential for the WCL hours. During the work week that includes this appointment, the employee is required to coordinate with the employee's supervisor to reduce the employee's scheduled hours by the number of WCL hours taken.

If the employee works a day shift and has a doctor or other health care provider appointment for a compensable injury on a day off, the employee is allowed WCL

hours to attend the appointment during the day off. During the work week that includes this appointment, the employee is required to coordinate with the employee's supervisor to reduce their scheduled hours by the number of WCL hours taken.

WCL is paid at the employee's normal pay rate and does not count toward their 40-hour work week. WCL does not count as hours worked for the purpose of calculating eligibility for overtime.

10.4.5 Maximum Medical Improvement (MMI)

The following rules apply when an examining doctor has determined that an employee with a compensable injury has reached MMI (See *Glossary*):

- The date OHS receives the document from an examining doctor that places an employee at MMI shall be the date for time reporting code changes related to MMI.
- If, after the employee has reached MMI, an examining doctor releases the employee to return to work full duty, the employee may be eligible to utilize Major Medical Sick Leave benefits for continuing medical conditions related to the compensable injury. The employee must meet all requirements specified by the MMSL policy.
- The employee must submit a written request to the department director requesting use of MMSL. Documentation from an examining doctor to justify the leave must be included with the employee's request.
- If, after the employee has reached MMI, an examining doctor determines the employee is unable to return to work due to a compensable injury, the employee's department will refer the employee to OHS for Employment Options assistance. See *Inability to Perform Essential Job Functions; Employment Options* in Chapter 11.
- The employee must use accrued leave, and may request use of MMSL while they are unable to work.

If, after the employee has reached MMI, the examining doctor releases the employee to return to work full duty with no restrictions, the employee is not eligible for further TIBS. If, because of an examining doctor's restrictions on an employee's return to work, the employee must be off work and lose time due to the compensable injury, the employee must use available accrued leave, including MMSL, or, if none is available, request approval for a leave of absence without pay.

If, after an employee has reached MMI, an examining doctor determines the employee is able to return to work from a compensable injury, but with restrictions to duty, the employee's department will refer the employee to OHS for initiation of the Employment Options process. See Chapter 11, Section entitled *Inability to Perform Essential Job Functions; Employment Options*. The department and OHS will determine if the employee can perform the essential functions of the job with a

reasonable accommodation for the duty restrictions. If a reasonable accommodation can be provided by the department, the employee is returned to work in a modified-duty capacity. If a reasonable accommodation cannot be provided by the department, the employee proceeds to Employment Options and is referred to the City's return-to-work committee for Employment Options assistance. During the 60-day Employment Options period, the employee must use available accrued leave, including MMSL, or, if none is available, request approval for a leave of absence without pay.

10.5 Workers' Compensation Control Group

A workers' compensation control group (WCCG) is available to department supervisors and managers to temporarily fill positions occupied by employees who are unable to work or who are in a less than full-duty status because of an occupational injury or illness.

The employee's department must continue to pay the salary of an employee transferred into the WCCG when the employee is in a less than full-duty status.

10.6 Medical Benefits

All medical benefits for health care that is reasonably required by the nature of the compensable injury shall be provided to employees in accordance with the pertinent Labor Code and related rules. Such health care must be medically necessary and related to the compensable injury.

In order for medical expenses related to a compensable injury to be paid by the City of Fort Worth Self-Insured Workers' Compensation Program, the employee must receive treatment from a doctor who agrees to provide treatment and services and to be paid by the Self-Insured Workers' Compensation Program, in accordance with the pertinent Labor Code and rules.

Employees may receive treatment from a doctor who does not participate in the Texas workers' compensation system; however, the City of Fort Worth's Self-Insured Workers' Compensation Program may be relieved of liability for payment of such medical treatment and medical expenses from a doctor who does not participate in the Texas Workers' Compensation system in accordance with the Labor Code and the Admin. Rules.

10.7 Dispute Resolution

A claim for workers' compensation is a claim against the City of Fort Worth. Any and all disputes that may arise among parties to a workers' compensation claim shall be resolved or adjudicated in accordance with the Labor Code, Chapter 410, and by Admin. Rules 140 through 152.

Employees have the right to professional assistance regarding their claim for workers' compensation. Such professional assistance is available at no cost to the injured employee from the Office of Injured Employee Counsel, an agency of the State of Texas.

Employees also have the option to retain legal representation regarding their claim for Workers' Compensation. If the employee hires an attorney and TIBS are being paid, the attorney's fees can be deducted from weekly TIBS payments made by the TPA. If TIBS are not being paid, arrangements for the payment of attorney's fees must be determined between the employee and his or her attorney.

The City shall not provide legal representation to an employee to assist the employee during dispute resolution proceedings concerning Workers' Compensation benefits.

10.8 Noncompliance

Employees who fail to comply with the provisions of the Labor Code and Admin. Rules are subject to potential administrative violations and penalties as set forth in Labor Code Chapter 415.

11. Return-to-Work Program

11.1 Purpose and Introduction

The City provides a return-to-work (RTW) program to assist employees to return to the workforce as soon as the employee is physically and medically able. The Occupational Health and Safety Division (OHS) of Human Resources administers the citywide RTW program.

For questions about this chapter, call the HR Manager for Occupational Health and Safety.

11.2 Role of Department Return-To-Work (RTW) Coordinator

The departmental workers' compensation coordinator (WCC) also serves as the department's RTW coordinator. (See Chapter 10 on *Occupational Injury Benefits Program*, specifically the section entitled *Role of Workers' Compensation Coordinator (WCC)*.)

In regards to the RTW program, the WCC/RTW coordinator shall be responsible for the following:

- Communicate with doctors regarding the availability of limited duty for injured employees and to obtain DWC-73 "Work Status Reports" (DWC-73).
- Communicate with managers, supervisors, and employees regarding doctor-identified restrictions to duty of employees.
- Monitor the work status of employees who are on lost time or limited duty as the result of their injury and medical condition; maintain routine contact with injured employees to monitor their work status; and monitor and track limited duty assignments.
- Assist supervisors to identify and provide limited duty assignments based upon the employees' skills, knowledge, ability, recovery period, status of maximum medical improvement (MMI), and duration of doctor-imposed restrictions to duty.
- Assist supervisors with providing bona fide offers of employment (BFOE) to employees returning to work on a limited/modified/alternate duty assignment.

11.3 RTW Program for Occupational Injuries

11.3.1 Applicability

The RTW Program for Occupational Injuries applies only to employees who sustain a compensable job-related injury, illness or disease, or disability.

11.3.2 Employee Duties and Responsibilities

In regards to the RTW program for occupational injuries, employees shall be responsible for the following:

- Informing the examining doctor that the City provides limited-duty opportunities. The employee shall not inform the examining doctor that the City does not provide limited duty.
- Obtaining a fully completed and signed copy of form DWC-73 “Work Status Report” from an examining doctor during each medical examination.
- Providing the DWC-73 to the Medical Records Custodian (MRC) and/or WCC after each medical appointment with an examining doctor.
- Reporting to work on the effective date of an examining doctor’s release to RTW, or the beginning of the next scheduled work day or shift.
- Accepting and signing a Bona Fide Offer of Employment (BFOE) upon being released by an examining doctor to return to work in a limited duty capacity.
- Passing a job-related human performance evaluation (HPE) as a prerequisite to returning to work full duty, as required by the Occupational Injury Return to Work (RTW) rules, if the employee’s job duties require moderate to heavy physical demand requirements. OHS will engage in an interactive process with an employee to discuss reasonable accommodations if the employee asserts that a disability prevents the employee from passing the HPE but the employee can perform the essential functions of the job with or without a reasonable accommodation.

11.3.3 Occupational Injury Return To Work (“RTW”) Rules

Employees returning to work following injury or serious illness must provide, to the department MRC and WCC, a DWC-73 “Work Status Report” completed and signed by an examining doctor. This completed form must be provided on the day of the medical appointment or at the beginning of the employee’s next scheduled work day or shift. The employee must report to work on the effective date of the examining doctor’s release to return to work or at the beginning of the employee’s next scheduled work day or shift. The effective date of the employee’s return to work will be determined by the examining doctor on form DWC-73. The employee must remain off work until the release is effective.

If the employee has physical or medical restrictions to duty, all limited- or alternate-duty assignments must be documented by the department in a Bona Fide Offer of Employment (BFOE), signed by the employee. The department should consult with OHS as needed prior to providing the BFOE to the employee.

An employee's refusal to accept and sign a BFOE may result in suspension of temporary income benefits (TIBS), and also may result in disqualification from eligibility for city disability supplement pay (DSP).

Before refusing to provide an employee with a limited duty assignment, the department's RTW coordinator shall notify the OHS RTW coordinator. The OHS RTW coordinator will work with the employee's department to try to locate limited or alternate duty within that department or another city department. The employee's original department pays the employee's salary while working limited duty in another department.

After consulting the OHS RTW coordinator, if limited duty cannot be provided, the employee must remain off work. The off-work period is considered lost time due to the compensable injury, and the employee will continue to receive TIBS. The off-work lost time status continues until the first occurrence of any of the following:

- A limited- or alternate-duty assignment becomes available that meets the employee's qualifications and restrictions;
- The employee reaches maximum medical improvement (MMI); or
- The employee is released by an examining doctor to perform the employee's essential job functions, with or without reasonable accommodations.

Limited-duty assignments end at the first occurrence of any of the following:

- 180 calendar days (cumulative) of limited-duty assignment;
- Attainment of MMI as determined by an examining doctor, or as required by the Labor Code or Admin. Rules; or
- A release by an examining doctor to perform the employee's essential job functions, with or without reasonable accommodations.

A limited-duty assignment shall not to be considered a permanent duty assignment or permanent job/position with the city. Department directors shall ensure that limited-duty assignments do not exceed 180 calendar days (cumulative). A Department director, in consultation with OHS, may terminate a limited-duty assignment based on the business needs of the department, as substantiated by the Department director.

An employee who reaches MMI and is unable to perform the essential functions of the job with or without a reasonable accommodation will be directed to the OHS disabilities coordinator to participate in the Employment Options process. See

Section *Inability to Perform Essential Job Functions; Employment Options* below for further information.

An employee is expected to report to work in accordance with the BFOE and the examining doctor's release to return to work. An employee who fails to do so will be deemed to have refused the BFOE and that may result in suspension of temporary income benefits (TIBS), and also may result in disqualification from eligibility for city disability supplement pay (DSP). The employee is responsible for providing or arranging his/her own transportation to and from work when released to work on limited duty by an examining doctor.

If an employee who has been released to return to work takes a prescription drug prescribed by an examining doctor that adversely affects the employee's job performance or the safety of the employee or others, the employee must either not come to work and utilize his department's absence notification procedures, or leave the workplace after notifying his supervisor, and use available accrued leave. If accrued leave is not available, the employee will be placed on leave of absence without pay.

11.3.4 Medical Examinations; Designated Doctor Examinations

The employee may be required to attend a designated doctor examination (DDE) under the pertinent Labor Code and Admin. Rules to determine the employee's ability to work. If the designated doctor determines the employee may return to work either with or without restrictions to duty, then the employee must return to work on the effective date of the designated doctor's release, or the beginning of the next work day or shift after the effective date of the release. If the DDE report is delayed in being sent to the employee and the City, the date that OHS receives the DDE report shall be the effective date for the employee to return to work.

11.3.5 Compliance

An employee's failure to comply with any requirement of the RTW Program for Occupational Injuries may result in the suspension or denial of DSP benefits, and also may result in disciplinary action up to and including termination in accordance with city Personnel Rules and Regulations (PRRs).

11.4 RTW Program for Non-occupational Injuries, Illnesses and Disabilities

11.4.1 Applicability

The RTW Program for Non-occupational Injuries, Illnesses and Disabilities section applies only to employees who sustain an off-the-job injury, illness, disease, or disability.

11.4.2 Employee Duties and Responsibilities

In regards to the RTW program for non-occupational injuries, illnesses and disabilities, employees shall be responsible for the following:

- Following the procedures set forth in the Leave chapter (Chapter 5) for requesting and using short-term sick/family leave, old sick leave, major medical sick leave and FMLA leave for non-occupational injuries and illnesses.
- Reporting to work on the effective date of an examining doctor's release, or the beginning of the next scheduled work day or shift.
- Passing a human performance evaluation (HPE) as a prerequisite to returning to work full duty, as required by the RTW Program for Non-occupational Injuries, Illnesses and Disabilities. OHS will engage in an interactive process with an employee to discuss reasonable accommodations if the employee asserts that a disability prevents the employee from passing the HPE but the employee can perform the essential functions of the job with or without a reasonable accommodation.
- Accepting and signing a non-occupational BFOE when returning to work in a limited-duty capacity.

11.4.3 Non-occupational Injury/Illness Return To Work ("RTW") Rules

If an employee is absent from work for more than three (3) consecutive days, and the employee has not reported that the absences are because of an occupational injury or illness, the department may require that the employee have his/her doctor complete and sign the City's "Non-occupational Designation of Duty Status Form (DDS)." If the department requires the DDS form but the doctor refuses to complete it, the employee shall obtain alternative documentation signed by the doctor that provides information regarding the employee's ability to work, including any restrictions, and the expected duration of any such restrictions. The employee must provide the completed DDS or alternative documentation to MRC on the same day of the medical examination, or at the beginning of the employee's next scheduled work day or shift.

In cases where an employee is returning to work from a non-occupational injury or illness, they must provide to the department MRC a DDS form or alternative medical release completed and signed by a doctor. When released to return to work by an examining doctor, without restrictions, the employee must report to work on the effective date of the doctor's release, or at the beginning of the employee's next scheduled work day or shift.

If the employee has physical or medical restrictions, all limited-duty assignments must be documented by the department in a Non-Occupational Limited Duty Assignment form, signed by the employee. The department should consult with OHS as needed regarding the letter or process. An employee's refusal to accept and sign a non-occupational limited duty assignment will result in the employee remaining off work and the employee must use available accrued leave, or unpaid leave if accrued leave is not available. Limited-duty assignments to employees injured in the course and scope of employment shall be given preference over limited duty assignments to employees with non-occupational injuries or illnesses.

For limited-duty assignments, pregnancy will be considered by the City as the equivalent of a non-occupational injury or illness. However, if a pregnant employee's medical care provider certifies that the employee is unable to perform the duties of her regular work assignment because of her pregnancy and a limited-duty assignment is available in the same department that the employee can perform, consistent with the restrictions established by the employee's medical care provider, the employee shall be placed in that limited-duty assignment until such time as the restrictions are no longer applicable.

Before refusing to provide an employee with a limited-duty assignment, the department's RTW coordinator shall notify the OHS RTW coordinator. The OHS RTW coordinator will work with the employee's department to try to locate limited or alternate duty within that department or another city department. The employee's original department pays the employee's salary while on limited duty in another department.

If the employee's department is unable to provide limited duty or the OHS RTW coordinator is unable to locate limited duty in another city department, the employee must remain off work and must use available accrued leave, or be placed on leave without pay. The off-work status continues until the employee is released by an examining doctor to full duty.

Limited-duty assignments end at the first occurrence of one of the following:

- 180 calendar days (cumulative) of limited duty; or
- The employee is released by an examining doctor to perform the essential functions of his or her regular job, with or without reasonable accommodations.

After 120 days of limited duty, the OHS ADA/Disabilities Coordinator and OHS RTW Coordinator shall engage the employee in a discussion regarding the employee's limitations or restrictions to work, continuing limited duty assignment, and any accommodation(s) the employee may identify that could reasonably be provided by the department that might enable the employee to perform the essential functions of the employee's regular job. The OHS RTW Coordinator will inform

the employee of the 180 calendar day limitation on limited-duty assignments, and of the Employment Options process.

After 180 calendar days of limited duty, an employee who is unable to perform the essential functions of his or her regular job duties, with or without a reasonable accommodation will be directed by the department RTW coordinator to OHS for Employment Options. See Section *Inability to Perform Essential Job Functions; Employment Options* below for additional information.

A Department director, in consultation with the OHS ADA/Disabilities Coordinator and OHS RTW Coordinator, may terminate a limited duty assignment based on the business needs of the department, as substantiated by the Department director.

Employees must pass a job-related human performance evaluation (HPE) as a prerequisite to returning to work full duty if the employee's job duties require moderate to heavy physical demand requirements as determined by OHS. OHS will engage an employee in an interactive process to discuss reasonable accommodations if the employee asserts that a disability prevents the employee from passing the HPE but the employee can perform the essential functions of the job with or without a reasonable accommodation.

11.4.4 Independent Medical Examinations (IME)

Situations may arise from an employee's non-occupational injury, illness or disease in which an Independent Medical Examination (IME) may be required. Such situations include but are not limited to the following:

- The employee's doctor refuses or fails to timely complete the city's "Non-Occupational Designation of Duty Status (DDS)" form or provide alternative documentation with required information;
- To determine the employee's ability to perform limited duty or perform the essential functions of the employee's regular job, with or without accommodation; or
- To determine the employee's eligibility to use MMSL.

In such situations, OHS will determine whether an IME is appropriate. If OHS determines that an IME is appropriate, the OHS RTW coordinator will coordinate with the employee to try to agree on a doctor to perform the IME. If the employee and the OHS RTW coordinator cannot agree on a doctor to perform the IME, the OHS RTW coordinator will select the doctor to perform the IME and that selection is final. The employee's home department shall pay the costs of an IME. The employee shall be required by the Department director to attend an IME coordinated by OHS. Failure of an employee to attend an IME may result in disciplinary action up to and including termination. If the employee is not already off work, the employee shall be placed on administrative leave during the IME process.

If the employee's doctor refuses or fails to timely complete the city's DDS form, the results of the IME will resolve the issue. The employee will remain off work and must use his or her available accrued leave unless and until the IME doctor releases the employee to return to work with or without restrictions; or unless and until another examining doctor returns the employee to work with or without restrictions, and no questions arise about the employee's ability to perform the job functions.

If the employee's ability to perform the essential functions of his or her regular job, or the employee's eligibility to use MMSL, is the issue, the employee shall be required by the Department director to attend the IME. If the IME agrees with the employee's evaluating doctor's assessment, then the issue is resolved. If the IME does not agree with the employee's evaluating doctor's assessment, a subsequent IME shall be required. The employee must use his or her applicable accrued leave during the second IME process. The OHS RTW Coordinator will work with the employee to agree upon a doctor to perform a subsequent IME. If the employee and the OHS RTW coordinator cannot agree on a doctor to perform the IME, the OHS RTW coordinator will select the doctor to perform the IME and that selection is final. The results of the subsequent IME will resolve the issue.

If an IME doctor determines the employee may return to work either with or without restrictions to duty, then the employee must return to work on the effective date of the IME doctor's release, or the beginning of the employee's next scheduled work day or shift. Otherwise, the employee must remain off work and must use available accrued leave until released to return to work. Failure to return to work may result in disciplinary action up to and including termination.

11.5 Inability to Perform Essential Job Functions; Employment Options

11.5.1 Applicability

This section applies to occupational, as well as non-occupational injuries, illnesses and medical conditions.

11.5.2 Ability to Perform Essential Job Functions

Except during the temporary limited duty period discussed in this chapter, an employee returning to work following an injury or illness must be able to perform the essential functions of his or her regular job with or without a reasonable accommodation.

An employee who is unable to perform his or her essential job functions, including under the circumstances discussed in *Occupational Injury Return To Work ("RTW") Rules* or *Non-Occupational Injury/Illness Return To Work ("RTW") Rules*, may

receive assistance from OHS to identify other possible employment opportunities within the city through an “Employment Options process.”

11.5.3 Employment Options

An employee who is unable to perform his or her essential job functions, including under the circumstances discussed above in *Occupational Injury Return To Work (“RTW”) Rules* or *Non-Occupational Injury/Illness Return To Work (“RTW”) Rules*, shall be referred to OHS for “Employment Options.” OHS shall administer the Employment Options process.

The OHS ADA/Disabilities coordinator shall meet with the employee and department representatives to discuss and explain the options and sources of assistance that are available to the employee relative to employment with the city.

Beginning with the Employment Options meeting, the employee is placed on a leave of absence for 60 calendar days, during which time the employee must use available accrued leave, or be placed on a leave of absence without pay.

During the 60-day Employment Options period, the City’s ADA Coordinator and OHS RTW Coordinator will engage the effected employee in the interactive process as required under the Americans with Disabilities Act as amended. The ADA Coordinator, RTW Coordinator and HR Staffing Services will explore the possibility of alternate placement into a vacant position for which the employee meets minimum qualifications and can perform all of the essential functions of the job, either with or without a reasonable accommodation.

The City is not required to create a position nor is the City required to dislocate a current employee from his/her position in order to accommodate a person’s disability. If a suitable alternative position is identified, the employee will be placed in the alternative position at the entry level of that position.

If the employee secures another position within the City within the 60 days after the Employment Options meeting, the Employment Options process ends upon employment in the new position. If the employee has not secured a position of which the employee can perform the essential functions with or without reasonable accommodation, at the end of the 60-day Employment Options period, the employee’s employment with the City will be terminated.

12. Temporary, Seasonal and Part-Time Positions

12.1 Purpose and Introduction

This chapter describes requirements and provides information regarding positions that are regular, part-time, temporary, and seasonal.

For questions about this chapter, please call the Staffing Services Manager in the Human Resources Department.

12.2 Use of Limited Time/Duration Positions

Temporary, seasonal and less-than-half-time positions are generally used to:

- Make up for staffing shortages.
- Provide additional help in times of emergency.
- Assist in completing time-sensitive projects.
- Perform work that does not justify creating a permanent position.
- Perform short-term projects or work.

These positions are also for seasonal or sporadic jobs, such as umpires, lifeguards and crossing guards. They are short term, designed to augment staffing levels, and are not intended to serve as regular, authorized positions.

Persons may not be hired to temporary, seasonal and less-than-half-time positions to perform the duties and tasks of existing regular, authorized positions on a long-term basis. They are not a substitute for regular, authorized positions.

A current City employee may not be hired into a temporary, seasonal or less-than-part-time position while serving in a regular, classified position.

12.3 Duration of Positions and Information Related to Retirement Fund Participation

In order to comply with federal, state and local laws regarding retirement system participation, and to preserve the favorable tax treatment of the Retirement Fund, these guidelines regarding the allowable duration for certain positions with the City must be strictly followed. No waivers to these provisions will be granted.

12.3.1 Regular Employees, Full-Time Employees

Regular, Full-Time Employees are those who are working in authorized, budgeted positions with no set end date and who are scheduled to work at least 40 hours per workweek. These employees are considered to be working “full time,” and are eligible for benefits and Full City Contributions where applicable.

Regular, Full-Time Employees:

- Are eligible for pension fund participation.
- Are eligible for healthcare (medical and pharmacy) benefits, including the Full City Contribution. The amount of the City’s contributions toward healthcare benefits is re-evaluated annually for all participating employees as part of the City’s budget process.
- Are eligible for leave benefits.

12.3.1.1 Regular Employees Scheduled to Work Less than Full Time but More than Part Time

Employees in this group are those who are working in authorized, budgeted positions with no set end date and who are scheduled to work at least twenty but less than forty (20-39) hours per workweek.

Employees in this group:

- Are eligible for pension fund participation.
- May be eligible for healthcare (medical and pharmacy) benefits. If the employee’s actual hours worked per workweek average 30 or more during a Look-Back Measurement Period, the employee is eligible for and will be offered healthcare benefit coverage, including the designated Full City Contribution during the next 12 months if they decide to elect coverage. The City’s contribution toward healthcare benefits is re-evaluated annually for all participating employees as part of the City’s budget process. See the *Glossary* for further information on Look-Back Measurement Periods.
- Are eligible for leave benefits on a pro-rata basis, based on the hours they are regularly scheduled to work in a workweek in comparison to 40.

12.3.2 Part-Time Employees

Part-Time Employees are those who are scheduled to work less than 20 hours in a workweek (19 hours or less) in positions which are not limited in duration.

Part-Time Employees:

- Are not eligible for pension plan participation, and instead participate in the FICA Alternative Plan.
- Are not eligible for healthcare insurance.
- Are not eligible for leave benefits.

12.3.3 Temporary Employees

Temporary Employees are those working in project-oriented positions that are not scheduled to last longer than one year. Departments may extend Temporary Employees' positions for no longer than one additional year by obtaining approval from the Budget Office.

Temporary Employees:

- Are not eligible for pension plan participation, and instead participate in the FICA Alternative Plan.
- Are not generally eligible for health (medical and pharmacy) benefits. However, beginning January 1, 2015, in accordance with federal law, employees in this group may be eligible for healthcare (medical and pharmacy) benefits if their actual work hours average 30 or more per workweek over a rolling Look-Back Measurement Period. If eligible, each employee in this category will receive the Full City Contribution. Each Temporary Employee's eligibility for healthcare benefits and Full City Contribution is periodically re-evaluated on an on-going basis in accordance with federal law; for all participating employees, the amount of Full City Contribution is annually re-evaluated as part of the City's budget process. See the *Glossary* for further information on Look-Back Measurement Periods.
- Are not eligible for leave benefits.

12.3.4 Seasonal Employees

Seasonal employees are those scheduled to work in positions that will last for no longer than five months in a year. This is true regardless of the number of hours worked in a workweek by these employees during that five-month period.

Seasonal employees:

- Are not eligible to participate in the pension plan and instead participate in the FICA Alternative Plan.
- Are generally not eligible for health benefits.
- Are not eligible for leave benefits.

12.3.5 Evaluation for Conversion

Temporary and seasonal positions must be evaluated for conversion to a regular, authorized position, if filled for the majority of the time over a two-year period. A decision package should be submitted during the appropriate budget cycle to add the position as a regular, authorized position.

12.4 Direct Recruitment and On-Site Hiring

Employees may be hired to fill temporary or seasonal positions through Direct Recruitment conducted by authorized employees of the hiring department, with the assistance of Human Resources Department personnel. Hiring departments may additionally use the On-Site Hiring process when filling temporary or seasonal positions. The hiring department will generally follow the City's hiring practices. All departments must obtain a Personnel Action Request approved by the Human Resources Department prior to allowing a temporary or seasonal employee to perform any work.

12.4.1 Minimum Qualifications

Individuals selected for temporary or seasonal positions generally must meet the Minimum Qualifications of the position. If a qualified person cannot be hired for a position, a Department director may hire a temporary or seasonal employee who does not meet Minimum Qualifications and pay that person at a rate considerably below the typical entry-level salary for the position. Department directors must request and obtain a waiver from the Human Resources Director when hiring an employee who does not meet the Minimum Qualifications for a Limited Time/Duration Position.

12.4.2 Requirements for Hiring Retired Employees to Work in Limited Time/Duration Positions

Requests to hire a retired City of Fort Worth employee into a temporary or seasonal position must be approved by the Human Resources Director. A retiree must be separated from the City for at least one year before being hired to a temporary or seasonal position. A request to hire a retiree must include:

- The date the employee left the employment of the City.
- The City Department(s) for which the retiree worked.
- The need for the hire as opposed to hiring a non-retiree.

- The proposed pay the retiree will receive in his or her new position. The time period and hours scheduled the retiree is expected to work in the position.
- An explanation of the job duties the retiree will perform.

Other factors for hiring the retired employee may be considered. Representations should not be made to or plans should not be made with employees who are planning to retire regarding any future employment of them by the City after their retirement. Decisions to retire or leave the employment of the City should be made based on an intent to no longer work for the City.

12.5 Limits to Benefits for Seasonal or Temporary Positions

Persons hired to fill temporary or seasonal positions (including school crossing guards) are not entitled to full, Regular Position benefits including health benefits.

Employees occupying temporary or seasonal positions are eligible for the benefits available under the Workers' Compensation Act, Social Security/Medicare, the Fair Labor Standards Act, and the Family and Medical Leave Act (FMLA). Other prerequisites to coverage under those benefits may be applicable, depending on the type of benefit in question.

12.6 Eligibility to Apply for Internal-Only Positions

Temporary employees are not eligible to apply for internal-only positions until they have been employed with the City for six months or more.

12.6.1 Anniversary Date

If a temporary or seasonal employee is hired into a regular position, the employee's date of employment for retirement, longevity, and leave accrual purposes is the date the individual became a regular employee.

12.7 Temporary/Seasonal Pay Plan

Pay rates for temporary or seasonal employees are set at the discretion of the hiring Department director. Factors that may be considered in determining the appropriate salary include:

- The entry salary level of the classification that is comparable to the limited duration position.
- Whether the employee is performing some or all of the tasks assigned to incumbents in the comparable classification.

- The current market salary for such positions (realizing the City's salary structure is not based solely on outside market salaries).
- Whether the position is part-time, full-time or seasonal.
- The employee's past tenure and performance.
- Whether the position is a training-type assignment.

At the hiring Department director's discretion, temporary or seasonal employees performing at a satisfactory level are eligible for any salary adjustment approved by the City Council in the annual budget that does not specifically exclude temporary or seasonal employees. The raises are not automatic and are made at the discretion of the Department director.

Compensation for seasonal employees returning from previous service with a documented satisfactory work history are determined according to the factors listed above and the availability of funding.

Exemptions from this policy include job-carve positions (See *Glossary* regarding job carving.), interns, and positions in the City's Temporary Services Pool. For information on the Temporary Services Pool, see HR Advisory: *Temporary Employment Services (Clerical and Administrative)*.

12.8 No Paid Holidays

Employees occupying temporary or seasonal positions are not eligible for paid holidays.

12.9 Council Aides

This section serves to define the employment status of Council Aides and to ensure consistent application of procedures and practices for Council Aides. This includes the compensation policy and reporting relationship of Council Aides as well as their unique status as temporary City employees. Council Aides are personal staff of elected officials (Mayor and Council Members) with a unique temporary employment status. The Mayor and other elected members of the City Council select and are responsible for supervising, disciplining and terminating their respective Council Aides.

The Mayor and each Council Member may choose to have one full-time Aide or two part-time Aides. A Council Aide who is scheduled to work 40 hours per week is considered to hold a full-time position. A Council Aide who is scheduled to work no more than 20 hours per week is considered to hold a part-time position. Each Elected Official monitors his/her Council Aide's schedule, work hours, and performance; is responsible for establishing the Council Aide's work schedule, duties, and responsibilities; and is responsible for approving any time off work. Due to the demands of the Elected Officials' schedules, the day-to-day oversight may be delegated to the Chief of Staff; however, all supervisory responsibilities and hiring and termination decisions for the Mayor's Aide are solely those of the Elected Official.

Council Aides are subject to and must comply with the City's Personnel Rules and Regulations and Administrative Regulations; however, Aides cannot utilize the disciplinary appeal process and are not entitled to certain City benefits (addressed below).

Council Aides are not allowed to perform any political activities while they are working on City time. Council Aides may perform political activities on a voluntary basis or be paid personally by the Elected Official for any personal time spent on political activities.

The tenure of a Council Aide is dependent on the term of the hiring Elected Official; during that individual's term, the Council Aide is employed at will and may be terminated at any time with or without notice and with or without cause. When the hiring Elected Official leaves office, for whatever reason, the Council Aide's tenure as a Council Aide will cease at the same time unless the successor Elected Official chooses to retain the Council Aide. If an Elected Official leaves the City Council without an immediate successor, the City Manager has the authority to retain the individual serving as a Council Aide as a temporary City employee to handle the administrative duties of the Council District. In this situation, the individual will no longer be considered to be a Council Aide or a member of the Elected Official's personal staff but will be employed on the same terms and conditions as other temporary City employees.

12.9.1 Council Aide Compensation and Benefits

Council Aides are not subject to or protected by the provisions of the Fair Labor Standards Act because they are selected by an elected official to be a member of his or her personal staff, 29 U.S.C. § 203(e)(2)(C). As such, Council Aides are paid a fixed amount weekly, are not entitled to overtime pay, and cannot earn compensatory time. The Aide's compensation rate will depend on whether the Council Aide is considered to hold a full-time or part-time position, but the amount does not fluctuate based on the number of hours the Council Aide actually works in a week. Each Council Aide shall be required to maintain accurate records of the hours that he or she actually works and to submit such records to the Human Resources Department every other week, on the same schedule applicable to other City employees. In order to ensure compliance with applicable minimum wage laws, at the time of hiring and in connection with any salary adjustment, the Human Resources Department shall determine the maximum number of hours that each Council Aide may work each week based on that individual's weekly salary and shall inform the Council Aide and the hiring Elected Official of the individual's limit.

The maximum compensation for Council Aides will be determined by the Council during the annual budget process and the amount agreed to may be the same for all Council Aides or may vary based on individuals' time in their positions or specific responsibilities. The City Council as a body will address other personnel and salary issues (e.g., furloughs) that will be applicable to all Council Aides.

Council Aides are considered temporary employees and are therefore not eligible to participate in the City's Retirement System or to receive other benefits available to regular City employees except as noted in the next paragraph. As with all temporary employees, Council Aides do not contribute to Social Security (FICA). Instead, Council Aides make tax-free contributions in the amount of 8.25 percent to their individual accounts in a FICA Alternative plan. Contributions and earnings from these accounts are available to employees once they leave City employment. Funds are generally taxable at the time of withdrawal.

Through December 31, 2014, Council Aides will be provided access to the City's health plan, but they will receive no contribution from the City. Beginning January 1, 2015, full-time Council Aides and part-time Council Aides who work on average at least thirty (30) hours per week (as shown on submitted timesheets) will be provided access to the City's health plan and will receive the same contribution as full-time City employees. This change in contribution is intended solely to comply with the federal Patient Protection and Affordable Care Act, 42 U.S.C. §§ 18001 *et seq.*, and does not change the employment status or classification of any Council Aide or entitle any Council Aide to receive any additional benefit or protection.

13. Employee Conduct

13.1 Purpose and Introduction

The City is committed to promoting the wellbeing of its employees by maintaining high standards of work performance and professional conduct. The purpose of this chapter is to set forth the City's expectations for employees, and the discipline to follow in order to address unacceptable behavior, conduct, and related employment problems in the workplace, or outside the workplace when conduct impacts an employee's ability to do his/her job and/or influences the City's overall effectiveness.

The ultimate goal of this chapter and its procedures is to help employees become fully contributing members of the organization. Conversely, this policy is also designed to enable departments to fairly and effectively discipline and/or terminate employees whose conduct and/or performance does not improve or where the misconduct and/or unacceptable performance is of such a serious nature that a first offense warrants termination.

For questions about this chapter, please call the Employee Relations Manager.

13.1.1 Employee Responsibilities

City of Fort Worth employees are responsible for engaging in and promoting workplace behavior that creates and maintains a respectful environment that promotes effective teamwork. It is the responsibility of every employee to report behaviors that are detrimental to this environment. Employees can report such behaviors to their supervision or to the Employee Relations Division of the Human Resources Department.

13.1.2 Management and Supervisory Responsibilities

Managers and supervisors have a greater responsibility and are held to a higher standard, not only to model respectful, professional conduct at the workplace, but also to maintain an environment of respect and effective teamwork in their work areas. Managers and supervisors should monitor the workplace for inappropriate behavior and must immediately report incidents of harassing behavior to the Human Resources Department. Managers have a responsibility to control the release of information only to employees who have a need to know. When a rule or regulation allows for Department director or designee discretion, the Department director has the discretion to establish a policy that will be applied uniformly, in a nondiscriminatory manner, in all similar situations.

13.2 Conduct Warranting Disciplinary Action

Disciplinary action may be taken based upon any of the items below. This list is not all-inclusive. It is a guide that summarizes the majority of situations in which discipline should be imposed. Misconduct should be assessed on a case-by-case basis. A supervisor may determine that discipline is justified for behavior that is not on this list, if the supervisor is able to explain the reason that discipline is the most appropriate response in that situation. (See the *Glossary* for definitions of terms used in the list.)

- Failure to perform assigned work.
- Failure to perform work in a satisfactory manner, including failure to meet deadlines and /or requirements regarding quantity and quality of work.
- Failure to observe policies, procedures, rules, regulations or standards.
- Failing an alcohol or drug test, including the refusal to consent to a test, or refusing to provide a breath or urine sample, or failing to provide a breath or urine sample without sufficient medical justification when directed to do so pursuant to City policy.
- Possession and/or illegal use of drugs (including prescription drugs) and/or alcohol on the job. (See *Drug and Alcohol-Free Workplace* below for further information.)
- Failure of any employee to report an on-the-job injury, accident or violation of safety rules timely (i.e., within 24 hours for on-the-job injuries and immediately for any situation where safety risks and liability issues are possible).
- Engaging in behavior that threatens the safety of self, co-workers or the public.
- Possessing a record or pattern of unsafe work behavior as evidenced by multiple preventable accidents.
- Lack of attention, accuracy, caution, judgment or carelessness, or negligence and recklessness in performing work that results in waste of time and resources or creates dangerous or inappropriate situations.
- Excessive time spent on non-work activities during work time, including, but not limited to personal conversations, excessive coffee or smoke breaks, as well as personal use of electronic devices, such as use of the Internet, telephone, cell phones, blackberries, or PDAs.
- Viewing, displaying or disseminating provocative, sexually explicit or obscene activities at the workplace or on City equipment.
- Excessive or unscheduled absence or tardiness in reporting for work or returning from lunch or breaks.
- Absence without supervisory approval.
- Working for personal gain while on medical leave of absence.
- Failure to notify supervisor of tardiness in accordance with departmental attendance policies or practices.
- Misrepresentation or failure to adequately document the need to be off work.
- Failure to come to work for three consecutive days without calling a supervisor or a Medical Records Custodian (MRC) or giving any type of notification to a departmental authority (job abandonment).
- Failure to maintain or operate equipment, tools or vehicles in an appropriate and safe manner.

- Abuse, misuse, misappropriation or theft of City money, financial resources, time and/or property.
- Falsifying, misrepresenting or omitting information for the benefit of one's self or others.
- Cheating, forging or entering false reports on official City documents including, but not limited to, time and attendance records, employment applications and supporting documents.
- Engaging in behavior that is inappropriate or disruptive in the workplace.
- Sabotage
- Dishonesty
- Sleeping on the job (before issuing discipline, contact MRC to assess if medically related)
- Discourteous treatment of others.
- Insubordination
- Possession of unauthorized firearms, weapons, illegal drugs, alcohol or any other inappropriate item in the workplace (i.e., jobsite, vehicle or any location while engaged in City business).
- Reporting to work or working under the influence of drugs or alcohol or consuming these substances during work hours.
- As a City employee, giving or accepting gifts, money or favors in exchange for some benefit to one's self or others.
- Failure to maintain confidentiality.
- Violation of written City, departmental, divisional, Administrative Regulations, City Charter work rules, procedures or policies.
- Theft or inappropriate removal or use of property.
- Disrespectful or unprofessional conduct in the workplace.
- Misuse or misrepresentation of one's position or authority.
- Use of profanity, abusive language, or racial slurs.
- Failure to return to work upon conclusion of an authorized leave of absence, disciplinary suspension or failure to return to work after having been released to work by a doctor.
- Failure to maintain professional credentials and/or licenses required for the position.
- Off-the-Job Conduct — Conduct that would likely impair the trust of the public, including public intoxication, illegal drug activity or other criminal activity, and slandering or defaming public officials, appointees or other City employees.
- Violation of City's Harassment rule.
- Violation of City's Violence in the Workplace rule.
- Violation of City's Inappropriate Conduct rule.
- Violation of Social Media rule.
- Violation of the Ethical Standards of Conduct rules, the City's Ethics Code and the ethics provisions of the City's Charter.

13.3 Ethical Standards of Conduct

It is critical as a public employee that public trust is upheld. It is declared to be the policy of the City that the proper operation of democratic government requires that public

officials and employees be independent, impartial and responsible only to the people of the City. Employees have an obligation to conduct themselves in accordance with the City's ethics rules. Employees who violate these regulations may be subject to disciplinary action, up to and including termination. A supervisor should contact the Employee Relations Division for assistance if a situation arises that might implicate the ethical standards of conduct.

Employees are required to comply with the City of Fort Worth Code of Ethics, Sec. 2-236 of the City Code. An employee who violates the City's Code of Ethics could be the subject of a complaint to the Ethics Review Commission, which has the authority to recommend that the City Manager issue disciplinary action against the employee, or receive disciplinary action, up to and including discharge. See the City's relevant webpage for more information on the Ethics Review Commission:
<http://fortworthtexas.gov/citysecretary/info/default.aspx?id=4942>.

In regards to expectations for ethical standards of conduct, and consistent with the City's Ethics Code, it is required that:

- Government decisions and policy should be made in the proper channels of the government structure;
- No employee or employee's spouse or domestic partner should have any substantial interest, as defined in the City's Ethics Code, financial or otherwise, direct or indirect, or engage in any business transaction or professional activity, or incur any obligation of any nature that is in conflict with the proper discharge of his/her duties in the public interest;
- Employees are not to use their positions for personal gain, or for the gain of their spouses or domestic partners;
- No employee shall accept or solicit, or knowingly allow his or her spouse or domestic partner to accept or solicit any benefit, including a promise of future employment, gift, favor, service or thing of sufficient economic value from any person, group, or business entity that might reasonably tend to influence him /her in the discharge of official duties;
- No employee shall grant, in the discharge of official duties, any improper favor, service or thing of value to any person, group, or business entity;
- No employee shall accept or solicit, or knowingly allow his or her spouse or domestic partner to accept or solicit, any gift favor, or service, including a promise of future employment;
- No employee shall disclose any confidential information that is gained by reason of their position or use such confidential information to advance any personal interest, financial or otherwise;
- No employee shall use his or her position, City facilities, personnel, equipment or supplies for private gain;
- Employees shall disclose to their supervisors the existence of any interests in any person, business entity or property involved in any pending City decision-making;
- Employees shall uphold the laws and regulations of the United States, the state of Texas, and the City of Fort Worth, and never be a party to their evasion;

- Employees shall never make any private promises or give or accept any special favors or privileges for themselves or their families that could be construed as influencing the performance of governmental duties;
- Employees shall not engage in any business with government, directly or indirectly, that is inconsistent with the conscientious performance of governmental duties;
- Employees who have questions about the ethics rules, should consult with their supervisors for a determination regarding the proper course of action. Supervisors should ask their Department directors or the Employee Relations Manager if they have questions;
- Employees who have accepted gifts or who have been offered gifts must report the gifts to their immediate supervisors within five business days of accepting or being offered the gift.

13.3.1 Reporting Illegal or Unethical Conduct

If an employee believes that illegal or unethical conduct has occurred, they should report the suspected offending conduct to their supervisor or department director. If employees do not feel comfortable reporting the matter to their supervision or department director, they can report the issue to the Employee Relations Division of the Human Resources Department or utilize the City's third-party reporting tool, which can be accessed via the City's intranet page, or by calling the 24-hour hotline at 888-NOW-4ACT. Employees may choose to remain anonymous when providing information.

13.3.2 Prohibition of Seeking or Accepting Gifts

The City expects employees to avoid improper influence or the appearance of improper influence in dealings with the public. Employees cannot solicit, directly or indirectly, any gift from an existing or potential City supplier or customer. This prohibition includes gifts to the employee's spouse, domestic partner, son, daughter, or any other person in whose welfare the employee has a direct and substantial interest.

Employees should avoid the appearance of impropriety. Employees cannot accept gifts from a City supplier or customer if a reasonable person would believe that the offered item would provide an appearance of improper influence. Employees should never accept cash from a City supplier or customer, regardless of the amount. Employees should never accept an item that is valued at \$50.00 or more because the employee could be subjected to criminal penalties for doing so. If an employee is offered or accepts a gift that is valued at less than \$50.00, the gift might be perceived as giving the appearance of improper influence. The employee is required to notify the employee's immediate supervisor for approval within five business days after a gift is offered or accepted. Ordinarily, accepting a small advertising token, such as an ink pen, hat, coffee mug, or mouse pad will not violate the ethics rules. Even if a supervisor approves the acceptance of a gift, it is possible

that the employee might be the subject of a complaint filed with the Ethics Review Commission, which could recommend that the City Manager issue disciplinary action.

If the gift is determined to be inappropriate, the employee should refuse the gift in a polite and respectful manner. If a gift has already been delivered, it should be returned. If the sender does not want to accept the return, the employee should report the gift to the Department director who will document the receipt of the gift and forward the gift to a local charity, along with a letter documenting the situation. This prohibition includes gifts to spouse, domestic partner, or any other person within the first degree of relation to the employee.

See the *Glossary* for the definitions of “gift and “person within the first degree of relation.”

13.3.2.1 Miscellaneous Rules about Gifts

Employees may usually attend public functions sponsored by suppliers as approved by their departmental supervisor. Examples of public functions include groundbreaking ceremonies, receptions, dedications, completion of project parties, exhibitor receptions at conferences, and so on. Supervisors should review attendance at public functions for compliance with the City’s Ethics Code and this chapter of the City’s Personnel Rules and Regulations.

Employees may participate in education activities sponsored by current or potential City suppliers when participation is part of a contractual agreement with the City of Fort Worth or is open to other customers or potential customers of the suppliers; provided that, when travel is required, transportation expenses are paid by the City, except those activities that are associated with the purchase, study and review of apparatus or equipment and/or supplies for the City and as the activities may be provided in an approved contract.

Employees can participate in discount purchasing when discounts are part of a marketing program sponsored by a current or potential supplier or local merchant, provided that the discount is made available to an entire group of employees.

Under state law, it is a criminal offense for an employee in any City department performing regulatory functions or conducting inspections or investigations to solicit or accept any gift from a person that the employee knows to be subject to regulation, inspection or investigation by the employee or his or her department.

Under state law, it is a criminal offense for any City employee who has authority to recommend or approve contracts, purchases, payments, claims, or other pecuniary transactions of the City to solicit or accept any gift from a person that the employee knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his or her discretion.

Employees must contact their supervisors or Department directors if they have questions about gifts or to request further interpretation of these guidelines. (Requests from Department directors should be sent to the Human Resources Director.)

Employees who violate this policy may be subject to disciplinary action, up to and including dismissal.

13.4 Absenteeism

Absence management is a key component in increasing overall workplace productivity and employee morale. The purpose of this section is to provide guidance in applying administrative procedures and establishing lines of communication for dealing with employee absences. Supervisors should educate employees so that they understand the City, departmental and divisional policies and procedures pertaining to time and attendance. This should be done with all new employees and it is advisable to review with all employees on a regular basis. If a supervisor feels that an employee may be developing an absenteeism problem, the supervisor should talk to the employee when a problem is first identified and make sure that the employee understands the importance of being a reliable employee and the consequences if excessive absenteeism continues. Attendance records should be maintained on all employees in a manner that is effective for each supervisor.

If absenteeism becomes a problem and impacts work productivity or employee morale, the supervisor should take stronger action, including closely monitoring the employee and maintaining documentation on the absences, reasons given for the absences, and previous discussions with the employee regarding the absences. Once the problem has been documented, the supervisor should take action that is appropriate to the situation, including imposing discipline, if necessary.

Absenteeism may impact an employee's pay or be the cause of disciplinary action up to and including termination. Disciplinary action may result for the following actions:

- Taking excessive or unscheduled absences (See *Glossary* for definition of unscheduled absence.) or tardiness in reporting for work or returning from lunch or breaks.
- Engaging in patterns of similar absences/tardiness situations, such as calling off work without prior authorization, leaving work early without prior authorization, or coming in later on Mondays, Fridays, around holidays, etc.
- Failing to timely notify supervisor of tardiness or absence.

- Being absent without supervisory approval.
- Failing to follow departmental call-off policies or practices.
- Being absent for three consecutive days and not notifying the supervisor, MRC, or approved departmental authority.

Individual departments and larger divisions within departments need to prepare clear, written policies and procedures pertaining to absenteeism or tardiness. Absenteeism and tardiness policies should clearly address:

- Whom to call (e.g., whether the employee needs to speak directly with a supervisor, whether it is acceptable to text or e-mail, whether it is acceptable to leave a message at a designated number, etc.);
- When to call;
- What information to provide;
- What constitutes acceptable and unacceptable reasons for absences/tardiness;
- Verification (documentation) requirements;
- Unacceptable patterns of absenteeism/tardiness; and
- The consequences for ongoing incidents of violations of the attendance policy, including, but not limited to, unscheduled absenteeism/ tardiness, failure to provide required documentation, etc.

Time off with pay is an employee benefit and not a right. A supervisor may deny an employee's request for time off if the absence is likely to have an adverse impact on work or other employees. A supervisor may also deny an employee's access to accrued leave and rescind previously approved time to be off work, if the reasons for the leave are found not to be valid or if there is a pattern of leave abuse.

13.5 Disciplinary Action

Discipline is used as a tool to assist an employee in taking responsibility for his or her behavior. It is not the supervisor's responsibility to change an employee's behavior. The employee is responsible for changing his or her own behavior.

13.5.1 Role of the Supervisor

In regards to the disciplinary action process, the supervisor has the following responsibilities:

- To clearly explain to the employee what the job expectations are.
- To guide and assist the employee in the performance of job duties through coaching and counseling.
- To inform the employee of the rewards if the employee adheres to the work rules and performs to standard or the consequences if the employee violates work rules and fails to perform at standard levels.

Discipline is necessary when an employee fails to behave properly or engages in misconduct on the job or fails to perform assigned duties satisfactorily. Discipline is not primarily punitive. It is primarily an opportunity for the supervisor to teach, inform the employee of behavioral or performance shortcomings, and explain how to correct those shortcomings in a respectable and confidential manner. When a supervisor exercises discipline, the stated City values of exceptional customer experience, accountability, ethical behavior, diversity, mutual respect, and continuous improvement should guide both the content and presentation of the discipline.

Some employees may need to strengthen their knowledge, skill or abilities to perform a job satisfactorily. In that case, more training and guidance should be given. If, after additional training and guidance, the employee still cannot perform the job assignments satisfactorily, appropriate disciplinary action should be initiated.

Behavioral problems must be corrected by the employee. If the supervisor determines that the problem is behavioral, the supervisor must explain to the employee the negative consequences of continued misbehavior on the job.

13.5.2 Steps in Taking Discipline

The following is an overview for completing and administering discipline.

Investigate Promptly

Before issuing disciplinary action, the supervisor must conduct a fact-finding investigation. In most situations, supervisor should investigate within thirty (30) days of the date that the supervisor discovers a potential problem with an employee's performance or behavior. In rare situations, the supervisor might investigate after thirty (30) days, but the supervisor should be able to explain a credible reason for the delay.

Interview the employee, as well as the complainant and other fact witnesses. As part of the fact-finding process, obtain the employee's side of the story. Meet with the employee before taking disciplinary action and take notes of the employee's response to the incident. It demonstrates a commitment to be fair and thorough, as well as a commitment to conduct a balanced review of what occurred. The supervisor must reserve judgment about whether to impose discipline until after the supervisor has evaluated the employee's statement/information. The supervisor should also interview the person who made the complaint (if any), as well as any other individuals (whether they are employees or not), who might have witnessed the behavior that is in question.

Document the Fact-finding

The employee's name, employee number, supervisor, department/division, and job title, as well as the effective date of the discipline, should be documented on notes, witness statements, and any other documents that are used to document the investigation. Have the witnesses write their recollections of the incident, and then interview them based on their statements. Gather all documents that are relevant to the situation for review.

Determine Appropriateness of Discipline

The supervisor should decide whether or not the incident most likely happened as alleged. If so, the supervisor should consider any circumstances that might justify the behavior or mitigate the severity of the misconduct. The supervisor may also consider the employee's disciplinary record when deciding the appropriate level of discipline to issue.

Any discipline affecting an employee's pay or work status (such as suspensions, reductions in pay or leave, disciplinary probation, pre-demotion, pre-termination, and termination) must be sent to Employee Relations (ER) for review and recommendations prior to issuing the discipline to the employee.

Document the Disciplinary Action

If it is determined that discipline is warranted, the supervisor should fill out a Disciplinary Action Form (which can be obtained from ER or via the Human Resources Forms webpage) including the following:

- Include the facts that describe the employee's infractions, and the dates that they occurred.
- Include a summary of the employee's disciplinary record, if the record is used to support the level of discipline. The disciplinary record should include the level of the previous discipline and a brief description of why the disciplinary action was issued.
- Summarize the employee's response, obtained during the initial fact-finding process, in the Employee Account of Incident section.
- Choose the appropriate level of discipline and indicate this on the first sheet of the Disciplinary Action form.
- Include the City and/or Departmental rules violated in the next section of the form.

Disciplinary Action Administration Meeting

If the supervisor decides to administer discipline, the supervisor must meet with the employee to deliver the disciplinary notice to the employee in writing. The employee should sign the document indicating receipt, but not necessarily agreement with the propriety of the discipline.

If the employee refuses to sign to show receipt, then the supervisor must document that refusal with a witness signing the document. The supervisor must make a copy of the disciplinary action to give to the employee, indicating that the employee received a copy, but refused to sign. The employee may submit a response or a rebuttal, which is documented by writing/filling in the *Employee Comments* section or providing a rebuttal on additional sheets. The rebuttal must be confined to the discipline at issue or it may be rejected, and it must be submitted to the supervisor no later than one business day after the disciplinary meeting. The supervisor should attach a copy of the employee's rebuttal (if any) to the disciplinary notice for the personnel file.

Following the disciplinary meeting, supervisors (or designee) are to record all disciplinary actions in the Labor Administration section of People Soft and submit a copy of the signed discipline to the Human Resources HRIS/Records Division for filing.

13.5.3 Documentation

Supervisors should document discussions with employees. Various city policies and regulations, as well as state and federal employment laws (anti-discrimination in the workplace laws), require employers to maintain and retain documentation explaining decisions. On-the-job decisions are subject to questioning or challenge during the internal grievance or appeal process, for unemployment claims, and potentially with external sources or in legal proceedings. Good and adequate documentation provides supervisors with the information to respond to challenges. On the documentation, supervisors should include the date and location of the discussion, the subject matter of the discussion, as well as a list of other employees who are present. Supervisors should also sign the documentation.

Supervisors that do not have an office or location to do paperwork should always have pens, notebooks or paper, or a laptop in their vehicles and on the job, so they can document concerns, problems or incidents that may occur on the job site. Supervisors should have a file for each employee who works under their supervision, maintained confidentially in a secure location (e.g., electronically or in a locked file cabinet in a central office, etc.).

13.5.4 Disciplinary Action Types

The City does not have a progressive discipline policy. Supervisors are not required to impose a lower level of discipline before progressing to a higher level of discipline. Disciplinary matters are evaluated individually, and the level of discipline is imposed based on the circumstances of each situation. The types of disciplinary action a supervisor may take are, in order of severity (from least severe to most):

- Oral Warning (Documented Counseling).
- Written Warning.
- Suspension (or equivalent reduction in pay).
- Disciplinary Probation.
- Demotion.
- Termination.

No more than one type of discipline may be issued for the triggering events (for example, an employee may not receive a demotion and a suspension for the same infraction). The Human Resources Department Employee Relations Division is available for consultation and guidance.

Supervisors must decide the appropriate disciplinary action to take for the situation. Factors to consider include:

- Severity of problem or degree of negligence.
- Number and nature of previous disciplinary actions.
- Whether previous disciplinary actions were imposed for similar reasons.
- Frequency of previous problems (including the time lapse between disciplinary actions).
- Employee's work record.

Note: If an employee with an injury or illness receives a disciplinary action, the injury or illness does not stop the disciplinary process but the action should be delayed or deferred until the employee is released to return to work. In such instances, contact the Occupational Health and Safety Office for guidance.

Supervisors should meet privately with employees to discuss performance or behavioral problems when they first arise. Counseling with an employee does not require the supervisor to place a disciplinary record into the employee's personnel file. The supervisor should maintain notes of the meeting with the employee. This is a pre-disciplinary or non-disciplinary action.

13.5.4.1 Oral Warnings (Documented Counseling)

Oral warnings (Documented Counseling) are issued for minor policy, procedural, or conduct infractions. Infractions of this type would not endanger the health or welfare of any employee or citizen, or the overall operations of a department. The employee cannot file a grievance against an oral (or written) warning.

13.5.4.2 Written Warnings

Written warnings are issued for policy, procedural, or conduct infractions or when an oral warning (documented counseling) has already been given and an infraction occurred again or when the nature of the offense requires

more than an oral warning (documented counseling). The employee cannot file a grievance against a written (or oral) warning.

13.5.4.3 Suspension

Suspension without pay for ten or fewer working days is issued for serious rule violations, gross negligence, misconduct or insubordination or when less severe discipline has previously been given or if the incident is too severe for a warning but not egregious enough for more severe discipline. Typically, employees are not suspended for more than five days without pay; however, supervisors can suspend employees for up to ten days. The supervisor determines what days are used. If workloads make it inconvenient to the work team or severely lessen productivity, the suspension may be delayed. Multiple days without pay may be spread over several weeks, if deemed appropriate.

Reduction in Pay

Suspension without pay and reductions in pay rate are considered equivalent disciplinary actions. Supervisors and managers can discipline employees by reducing their pay rather than suspending them without pay. Reductions in pay serve the same disciplinary purpose as suspensions. The advantage of exercising this option is the employee must be at work, so the work group does not suffer because of the employee's absence.

A reduction in pay of ten percent for one pay period is equal to a suspension of one day without pay. A reduction in pay of five percent for two pay periods is equal to a suspension of one day without pay. Therefore, if a supervisor believes a three-day suspension without pay is in order, the supervisor may reduce an employee's pay rate ten percent for three pay periods or five percent for six pay periods.

Note: Special circumstances pertaining to exempt employees under FLSA: Employees exempt under the Fair Labor Standards Act are not subject to disciplinary suspensions without pay for increments of less than one full day. For violations of safety rules of major significance or for workplace conduct rules, exempt employees are subject to disciplinary suspensions without pay in full day increments. Additionally, exempt employees are subject to disciplinary suspensions without pay for a full work week for performance deficiencies, but exempt employees cannot be subject to disciplinary suspensions without pay for less than a week unless the suspension is for a violation of workplace conduct rules.

Time spent resolving issues under the City's grievance, complaint, and appeal procedures, during regular hours of work, is work time. Such time spent outside regular hours of work is work time only if the employee's

attendance is required by the City. See *Pre-termination, Demotion and Suspension Procedures* for further information.

13.5.4.4 Disciplinary Probation

Disciplinary probations are issued for very serious performance, behavior or attendance deficiencies. It is a very serious disciplinary action. When an employee is on disciplinary probation, the employee is possibly one step from termination. Supervisors must give serious consideration before placing an employee on disciplinary probation. The supervisor outlines the provisions of the probation into the disciplinary action form as follows:

The supervisor can establish a disciplinary probationary period from one (1) to a maximum of six (6) months. When deciding the duration, the supervisor should consider factors like the severity and number of violations, time between earlier violations, work record, evaluations, other relevant documented information, and whether the problem is habitual (which would suggest that a lengthier period is needed). The supervisor should identify the behavioral changes that must take place, and explain the consequences of failure to improve and to perform in an acceptable manner.

Supervisors must meet periodically with employees during their probation to provide feedback on the employee's progress. The supervisor must meet with the employee at the end of the probation to evaluate and discuss his or her progress and what action, if any, to take next. The supervisor should prepare and file meeting notes and if possible, obtain employee acknowledgement on the information discussed.

The employee is not guaranteed employment for the duration of the disciplinary probation. If during the disciplinary probation it becomes obvious the employee cannot or will not change behavior or improve job performance, the supervisor can initiate a termination action.

13.5.4.5 Demotion

Demotions are issued for work performance or job-related conduct that does not meet established standards or for the inability to improve performance. Demotions can be considered for employees who would be successful in a lower position with less responsibility or with lower expectations. A pre-demotion meeting must be held to demote an employee. Supervisors must follow the same procedures that are outlined in the *Pre-termination, Demotion, and Suspension Procedures* in the following section of this chapter to minimize the possibility that the action is modified or reversed later.

If an employee, to avoid disciplinary action, agrees not to contest a transfer into a lower position, a memo should be prepared for the employee's signature. The memo should explain the reasons for the demotion, the employee's new classification and pay rate (a minimum five (5) percent reduction in pay rate) and that the employee is not contesting the demotion.

13.5.4.6 Termination

Terminations are issued for work performance or behavior after other disciplinary measures have failed or when a first-time incident occurs that warrants the most severe discipline. See *Pre-termination, Demotion and Suspension Procedures* below for further information.

13.5.5 Pre-Termination, Pre-Demotion and Suspension Procedures

13.5.5.1 General Procedure

Supervisors need to complete a *Disciplinary Action* Form or draft a written notice for disciplinary pre-terminations, demotions or suspensions of more than 10 days. Employees on initial probation, temporary status are not entitled to a pre-disciplinary meeting. Department directors, assistant department directors, and division heads (e.g., Managers, Superintendents) and above are not entitled to a pre-disciplinary meeting.

The written notice to the employee should include the following:

- **Paragraph 1:** A pre-termination, demotion or suspension meeting has been scheduled. Identify the date, time, and place of the meeting.
- **Paragraph 2:** Background events (past disciplinary actions) that led to considering the disciplinary action.
- **Paragraph 3:** Quote the policy, regulation or procedure that the employee violated. The violation quoted is the basis for the disciplinary action under consideration. (Do not add other violations.)
- **Paragraph 4:** Briefly describe the triggering event and the employee's actions that are in violation of the policy that was quoted in Paragraph 3.
- **Paragraph 5:** Identify the specific disciplinary action that is being considered and invite the employee to respond to the content of the memorandum.
- **Paragraph 6:** Include a statement that the employee will be immediately placed off work until the scheduled meeting (typically three business days is sufficient). The employee will be asked to

turn in City-issued equipment, including keys, tools, ID and so on, before he or she leaves.

If allowed by the Department director, the employee will be notified that they may have a representative at the meeting. The employee will be immediately placed off work on administrative leave until the scheduled meeting (typically three working days is sufficient). The employee will be asked to turn in all City-issued equipment, keys, tools, ID card, etc. before he/she leaves.

The employee may request that the pre-disciplinary meeting be rescheduled. If granted by the Department director or designee, the employee's administrative leave pay will not continue beyond the time of the originally scheduled meeting. If the pre-disciplinary meeting is rescheduled by the department, the employee will remain on administrative leave until the pre-disciplinary meeting is held.

If the employee is already on leave without pay, they will only be compensated for the pre-disciplinary meeting time. Department directors or designee should determine a specific deadline for the rescheduling and convening of the meeting. The following example may be used:

The purpose for the meeting is to allow you an opportunity to respond to the reasons being considered to terminate your employment. You are allowed to have a representative at the meeting [Optional sentence that can be included if Department director allows representation.]. You may request that the meeting be rescheduled. To reschedule, you must contact _____ no later than 5:00 pm. If the meeting is rescheduled in a timely manner, it must be convened by January 25th. Failure to convene the meeting by January 25th will result in your forfeiture of a pre-termination meeting and a decision will be made based upon the information we have. You will not be penalized if due to unforeseen events the January 25th deadline cannot be met by the department. You will be off work until the meeting. Please turn in all City-issued keys, cell phones, I.D. badges and any other City-issued documents and or equipment.

13.5.5.2 Pre-termination, Demotion or Suspension (of more than 10 days) Meeting

The pre-disciplinary meeting should include the employee, the employee's representative (if allowed by the Director), the immediate supervisor involved, and one other supervisor, preferably a manager, such as a Division Head, Assistant Director or the Director. If the employee brings an attorney as a representative, an Assistant City Attorney must also be

present, so contact the Legal Department for representation. The meeting must follow this general agenda:

- Explain the purpose of the meeting. Present the employee with the information gathered and give the employee an opportunity to respond.
- Listen to the employee and take notes on what is said. Avoid arguing or debating with the employee. Listen and focus upon the information being presented.
- When the employee completes his or her rebuttal, explain that a final decision will be made and a certified letter containing your decision will be mailed within five (5) business days. Work time (employee's work schedule) between the conclusion of the meeting and the effective date of either the employee's return to work or his or her termination will be charged to administrative leave.

If the employee's rebuttal contained valid points or raised questions regarding the accuracy of the information gathered, investigate as needed. If the employee cannot attend a pre-disciplinary meeting (because of illness, incarceration, and so on) or if the designated departmental employee determines it is in the best interest of the City to conduct it through correspondence, invite the employee to provide a written response within five business days. This method may be used instead of the meeting; however, before this option is exercised, discuss it with the Employee Relations Division.

13.5.5.3 Decision Letter

After completing the pre-disciplinary meeting, if disciplinary action is warranted, prepare a brief letter on department letterhead. The letter should reference the pre-disciplinary meeting, list the attendees at the pre-disciplinary meeting, summarize the employee's rebuttal to the charges, state the decision made and explain appeal rights. The Decision Letter must be sent via certified mail within five business days after the meeting.

If the disciplinary action is modified or not executed based upon the findings of the investigations, the letter should report the results of the investigation, explain what decision has been made, direct the employee to return to work on a specific date and time, and report to a specific person. Upon his or her return to work, the employee should be given a written notification of the terms and conditions under which he or she is returning to work.

13.6 Employee Assistance Program (EAP)

The City's Employee Assistance Program (EAP) helps employees with a broad range of problems that can adversely affect their personal lives as well as their occupations. EAP can provide access to sources for counseling employees with alcohol misuse and drug abuse problems. EAP also helps employees with problems, difficulties, and/or stresses on or away from the job that can adversely impact an employee's ability to perform assigned duties or behave properly on the job.

Personal counseling to deal with personal crises, such as financial problems, marital problems, parental problems, and any other life stressors can be effectively addressed through the Employee Assistance Program. (See the Human Resources Website for *Benefits—Wellness Program* or contact the Human Resources Wellness Division for more information about EAP.)

Supervisors may recommend and encourage employees to use the EAP. They can make management referrals when deemed appropriate (for example, inexplicable deterioration in job performance or behavior). Management referrals to EAP for internal or external counseling are coded in the system as regular hours. Before making a referral, the supervisor should contact the Wellness Division Manager.

13.7 Drug-and Alcohol-Free Workplace

City employees are prohibited from possessing or consuming alcohol or illegal drugs in the workplace, or from being under the influence of illegal drugs or alcohol while on duty. Employees who do so will be severely disciplined, up to and including termination. Before disciplining an employee under this section, the supervisor must follow the *Pre-termination, Pre-demotion, and Suspension Procedures* in this chapter.

13.7.1 Drug and Alcohol Testing

13.7.1.1 Drug Testing

The City requires employees to take drug tests in the following situations:

- Pre-employment. All applicants who are offered employment must take a pre-employment drug test.
- Random. The following employees are subject to random drug tests: employees who are in safety-sensitive positions, employees who operate motor vehicles that are regulated by the U.S. Department of Transportation (DOT), employees who are in the following job family codes: Assistant Directors, Appointed Positions, Department Head, Executive or Management.
- Post accident. Employees who are involved in accidents while on duty are subject to drug tests.
- Reasonable cause. Employees who, while on duty, exhibit symptoms of being under the influence of drugs, as determined by

a supervisor who is trained to recognize the symptoms, will be required to submit to a drug test.

The controlled substances for which a test may be conducted are:

- Marijuana
- Cocaine
- Opiates
- Phencyclidine (PCP)
- Amphetamines/Methamphetamines

13.7.1.2 Alcohol Testing

Testing for alcohol is conducted for the following reasons:

- Random. Employees who operate motor vehicles that are regulated by the U.S. Department of Transportation (DOT) are subject to alcohol testing.
- Post-accident. Employees who are involved in accidents while on duty are subject to alcohol testing.
- Reasonable cause. Employees who, while on duty, exhibit symptoms of being under the influence of alcohol, as determined by a supervisor who is trained to recognize the symptoms, will be required to submit to an alcohol test.

A violation occurs (a) when the employee has a breath alcohol concentration (BAC) confirmation test level of 0.04 or greater or (b) when an employee consumes alcohol while on duty.

Fort Worth voluntarily complies with DOT regulations for employees who operate motor vehicles that are legally classified as commercial motor vehicles (CMV's), even though the DOT regulations do not apply to the City. All employees who operate CMV's will be tested for alcohol and drugs pursuant to DOT requirements.

The Human Resources Department determines whether positions are subject to random alcohol and drug testing based upon existing federal guidelines for identifying safety sensitive positions and employees who operate motor vehicles that are regulated by the DOT. Employees who are assigned to safety-sensitive positions have duties that include:

- Operation of City vehicles, personal vehicles or non-DOT equipment on City business.
- Direct contact with youth.
- A high level of safety consciousness.
- EAP return to work.*

- EAP follow-up test.*

**Only applies after a previous positive test has occurred or after completion of treatment.*

The Employee Assistance Program (EAP) is available to assist employees in dealing with drug-related or alcohol abuse issues for those who desire help. Employees can seek assistance by contacting the Wellness Division of the Human Resources Department or by contacting EAP directly. Employees will not be disciplined if they voluntarily seek help from EAP before they are scheduled for a random, post-accident, or reasonable cause drug or alcohol test.

13.7.2 Drug and Alcohol Prohibitions

The following are prohibited in the workplace or while on duty:

- Alcohol consumption in the workplace (e.g., office, any City property, vehicle, worksite, etc.).
- Being under the influence of alcohol in the workplace.
- The use, possession, distribution, dispensation, transportation, sale or manufacture of illegal drugs that violates state and federal controlled-substances acts.
- The illegal use of prescription medicines.
- Being under the influence of prescribed or over-the-counter medication on duty when the use causes impairment of job performance.

13.7.3 Job Applicant Testing

Final candidates for employment must pass a drug test. Final applicants for Federal Department of Transportation (DOT) safety-sensitive positions are required to undergo a drug test that may, if ordered, include an alcohol test.

Applicants are not hired if they fail an alcohol or drug test or refuse to consent to a test under the same conditions applicable for employees. An applicant who fails a drug or alcohol test is not eligible for employment or future employment with the City.

13.7.4 Criteria for Employee Testing

13.7.4.1 Random Testing

Employees who are in safety-sensitive, DOT positions or specified job families are randomly selected for testing. Each employee has an equal

chance of selection. Employees in safety-sensitive or Assistant Director, Appointed Position, Department Head, Executive, or Management job family codes are tested for drugs randomly at an annual rate of 20 percent. Employees in DOT positions are tested for drugs randomly at an annual rate of 50 percent, and tested for alcohol randomly at an annual rate of 25 percent.

13.7.4.2 Promotion, Demotion, Transfer, Reclassification

Employees moving into safety-sensitive, DOT positions or specified job families are tested for illegal drugs before the promotion, demotion, transfer or reclassification. An employee testing positive for alcohol or misuse of a prescription medication prior to a promotion or transfer to a safety-sensitive and/or DOT position will be referred to the Wellness Manager for assessment. (See *Employee Assistance Program* in this chapter above for further information.) If it is the employee's first violation, the personnel action will be cancelled and the employee cannot reapply for other City jobs for six months.

13.7.4.3 Reasonable Cause

When a supervisor, trained to detect drug abuse or alcohol misuse, determines that an employee may be under the influence of either, the supervisor must require the employee to be tested for alcohol and illegal drugs. A supervisor without the required training including the "reasonable cause" training cannot require the testing. An untrained supervisor must find another supervisor manager who has been trained to determine whether there is a reasonable cause for alcohol or illegal drug testing. The Wellness Manager may also initiate an EAP reasonable cause alcohol and/or drug test.

13.7.4.4 Post-Accident

If a City employee is operating a City vehicle or personal vehicle on City business, a post-accident alcohol and drug test is required under these circumstances:

- Accident involving a fatality.
- Accident in which a person is transported for medical attention.
- Accident where a traffic citation is issued to the City driver or operator.
- Accident where the supervisor and/or the Citywide Safety Officer can find no reasonable explanation for the cause of the accident. The supervisor and/or the Citywide Safety Officer

may request a post-accident alcohol and drug test. (The supervisor and/or the Citywide Safety Officer must have had the three-hour alcohol/drug misuse recognition training.)

The City's Wellness Manager may also initiate an EAP post-accident alcohol and drug test when deemed appropriate.

When an accident meets the testing criteria, the employee must be tested for alcohol within two hours following the accident. If circumstances prevent an alcohol test from being administered within two hours, the supervisor must prepare and maintain a record that explains why a test was not administered. If the employee is not tested within eight hours after the accident, the supervisor must prepare and maintain a report that explains why a test was not administered, and the time to conduct an alcohol test for an employee ends. A copy of the report must be sent to the Wellness Manager.

When the accident meets the testing criteria, the employee must be tested for illegal drugs within 32 hours following the accident. If circumstances prevent the drug test from being administered, the supervisor must prepare and maintain a report stating why the test was not conducted. A copy of the report must be sent to the Wellness Manager.

13.7.5 Drug and Alcohol Violations

An individual required to undergo a drug or alcohol test is requested by a supervisor or the city's Wellness Manager to sign a consent form to be prescribed by the City, and to report to a designated testing/collection site. The employee is required to go immediately to the location specified for the test. The employee must arrive within two hours at the designated site or a legitimate excuse must be provided to the supervisor and the Wellness Manager. The employee must provide documentation that the test was conducted within the prescribed timeframe. All drug and alcohol tests are conducted at City expense with the exception of the retest as discussed in the *Appeal and Retesting* section below.

13.7.5.1 Positive Drug Test

Upon confirmation of a positive drug test (results based on five-panel test), the medical review officer or designee contacts the employee to discuss the results. If the employee fails to communicate with the Medical Review Officer (MRO), the Wellness Manager will be directly notified of the test results.

In the event of a confirmed positive drug test result involving an applicant, the Medical Review Officer contacts the applicant and the Wellness

Manager, who in turn, notifies the hiring authority that the applicant is not eligible for City employment.

13.7.5.2 Positive Alcohol Test

Alcohol testing is conducted by a trained breath alcohol technician (BAT) using an Evidential Breath Testing (EBT) device. If a valid test result is less than 0.02, no further test is authorized and no action taken. If a valid test result is 0.02 or greater, a confirmation test must be run.

If a valid test result is 0.02 to 0.039, the employee may not perform any DOT or safety-sensitive functions for at least 24 hours after the test, and is referred to the Wellness Manager for assessment.

A violation of this rule occurs when the employee has a breath alcohol concentration (BAC) confirmation test level of 0.04 or greater. When this occurs the employee is referred to the Wellness Manager immediately for assessment.

13.7.5.3 Appeal and Retesting

A final applicant or employee may appeal the results of a positive drug test by requesting in writing that the collection site provide a part of the original urine sample (split sample) to another lab for retesting, all at the expense of the final applicant or employee.

Following notification of a positive drug test by the assigned departmental employee or the Wellness Manager, the employee or final applicant has three business days to notify the Wellness Manager (in writing) of the decision to request a retest using the split sample from the original urine specimen. The employee or final applicant is then given up to five business days from the submission of their written request to appeal the positive drug test results to make payment in full (money order or cashier's check; no cash) for the retest expense. An employee is not allowed to return to work until the retest results are received by the Wellness Manager. The employee may use any accrued leave time with the approval of the department director or designee.

If the retest result is negative indicating the positive result of the first test was wrong the City reimburses the applicant or employee for the retest cost. If the employee was required to use accrued leave time while waiting for the retest results and the positive result of the first test was erroneous the leave time used is changed to "REG" time so the employee does not suffer a loss because of the erroneous test result.

There is no appeal/retest process for an alcohol test because alcohol leaves the system quickly.

13.7.6 Forms and Instructions

If you have questions about:	Then call:
Employee does not bring completed Drug Test Notification Form	Wellness Manager 817-392-8556 Mobile: 817-944-8631
Employee is uncooperative or refuses to consent to an alcohol or drug test	Wellness Manager 817-392-8556 Mobile: 817-944-8631
After-Hours Collection (Monday-Friday 8 p.m.-7 a.m.; Saturday after 5 p.m.; Sunday all day)	One Step Services 1-866-997-8371

The following forms may be used in conjunction with drug and alcohol testing procedures:

Authorization for Treatment Form Reasonable Cause or Post-Accident Supervisor's Documentation

This form is prescribed by the DOT. It is also used for non-DOT reasonable cause testing and non-DOT post-accident reasonable cause testing. The supervisor completes the form to the fullest extent possible. The form is used for both alcohol and drug reasonable cause testing. When used for Non-DOT testing, the supervisor indicates so by writing Non-DOT in the upper right corner. The supervisor must complete the form within 24 hours of calling for a reasonable cause test. The form is distributed to the Wellness Division Manager, the employee, and the supervisor.

U.S. DOT Breath Alcohol Testing Results Request

If the employee wants a copy of the test results from an alcohol test, the employee must submit this form to the supervisor. The assigned department/division employee provides the form to the employee. (Contact the Wellness Manager for this form.)

U.S. DOT Controlled Substance Testing Results Request

Used when the employee wants a copy of the test results. The assigned department/division employee provides the form. (Contact the Wellness Manager.)

U.S. DOT Controlled Substance Test Results

This form is completed by the clinic. The clinic personnel have the form.

13.7.7 Discipline for Drug and Alcohol Policy Violations

Before deciding whether termination or other discipline is appropriate under the Drug and Alcohol Policy, the supervisor must always follow the procedures of the *Pre-termination, Pre-Demotion, and Suspension Procedures* in Chapter 13 of these regulations.

Subject to the procedures regarding pre-termination and termination processes described in Chapter 13, City employees shall be terminated for the following violations of the drug and alcohol policy:

- The use, possession, distribution, dispensation, transportation, sale or manufacture of illegal drugs.
- The consumption of alcohol in the workplace or while on duty.

If it is determined that an employee tested positive for use of illegal drugs or is directly observed consuming alcohol or using prescription drugs illegally while at work, the employee shall be terminated.

A terminated employee in a safety-sensitive position regulated by the Department of Transportation (DOT) shall be referred to the Wellness Manager, as mandated by the DOT.

A City employee will be disciplined, up to and including termination, under the following conditions:

- The first time an employee receives a positive test for alcohol use or the illegal use of prescription drugs on the job, the employee will not be terminated, but might be subject to another disciplinary action depending on the circumstances. The employee shall be referred to the Wellness Manager for assessment and training or treatment as appropriate to the situation. See section *Drug and Alcohol Testing* above for further information.
- The second time an employee receives a positive test for alcohol use or the illegal use of prescription drugs on the job the employee shall be terminated, regardless of the length of time that has lapsed between positive tests. Before terminating an employee, the supervisor must follow the disciplinary process in Chapter 13 of these regulations.
- An employee who is terminated for drug or alcohol violations is not eligible reemployment with the City.
- An employee who refuses to promptly consent to or who obstructs in any way a drug or alcohol test will be terminated (after an appropriate pre-disciplinary process has been followed).

Refusal to test includes:

- An employee who refuses to consent to a test.

- In the event of a urine test, an employee who fails to provide adequate urine for testing, without a valid medical explanation. A non-DOT employee may voluntarily agree to a blood test to avoid being terminated for refusing to be tested. A DOT employee does not have the blood test option.
- An employee who engages in conduct that obstructs the testing procedure by tampering with a urine sample, diluting a urine sample or substituting urine samples.
- After an accident that mandates post-accident testing, the driver/operator fails to make himself or herself available for a test within the time-frame specified.

A supervisor who notifies an employee of a random test too early or who delays sending the employee immediately (i.e., no more than one hour) after any type of test notification will be subject to disciplinary action. Sending an employee for a test should be no more than 30 to 60 minutes following notifying the employee of the test.

13.7.8 Commercial Vehicle

In the event of a fatality and/or extreme damage to property and/or serious injury arising out of the use or operation of a commercial vehicle, other employees (such as mechanics) may also be required to undergo an alcohol and drug test.

13.7.9 DOT Positions

A DOT position (See *Glossary* for definition.) may require a commercial driver's license. DOT positions demand safety-sensitive responsibility from the time the driver begins work or is required to be ready to work, until the time he or she is relieved from duty. The employee is expected to be drug and alcohol free during that time. A DOT position employee may not consume any alcohol from any source within four hours before reporting for duty.

A DOT position employee may not consume any alcohol for eight hours following an accident, or until taking the post-accident alcohol test, whichever comes first. If a DOT position employee refuses to undergo an alcohol or drug test, he/she will be terminated after an appropriate pre-termination process has been followed. He/She will also be referred to a Substance Abuse Professional (SAP), in addition to being scheduled for a pre-termination meeting. (The SAP cases covered by the DOT regulations are handled by a third-party vendor.)

13.7.10 Medicines on the Job

Employees may use over-the-counter or prescribed medicines on the job as long as the employee's performance is not adversely affected. If an adverse effect is observed that could result in an unsafe action or if an employee is unable to perform

his or her assigned duties, the supervisor will relieve that employee from duty and may assist with the employee's travel arrangements to leave work.

If an adverse effect on the employee's performance is observed, the employee must provide documentation to support the need for the medicine through a physician. Failure to justify the use of such medicines will result in the employee being off work while the matter is reviewed. The employee may either be subject to temporary reassignment of duties or may be required to take appropriate leave.

13.7.11 Legitimate Use of Prescriptions or Over-the-Counter Drugs

Employees are allowed to use prescribed or over-the-counter drugs as long as their performance at work is not impaired.

An applicant or employee who has a positive drug test and who can document that it is the result of using a prescribed drug containing an opiate, narcotic or amphetamine has a "medically explained" negative test that is not in violation of this policy. There is no loss of employment or opportunity for promotion or transfer. An employee may be referred to the Wellness Manager to evaluate his or her ability to safely perform safety-sensitive job functions while using the medication. In cases where an employee is misusing or abusing a prescription drug, the Wellness Manager works with the employee to address the issue.

13.7.12 Use of Controlled Substances that are Prescribed to a Person Other Than the User

The use of prescription drug(s) prescribed to another person containing a controlled substance is prohibited, and will be considered a positive drug test. An employee who uses another person's prescription medication in violation of this prohibition for the first time will not be terminated, but may be issued discipline after an appropriate pre-disciplinary process is followed. Additionally, an employee who violates this prohibition for the first time shall be referred to the Wellness Manager for evaluation. An employee who is found to have violated this prohibition after testing for a promotion or transfer will have the job offer withdrawn and cannot apply again for the promotion or transfer for six months.

Employees should never give their own prescription medication to another employee or another individual for consumption. Employees who give their prescription to other individuals in violation of this prohibition will not be terminated for the first violation, but may be disciplined after an appropriate pre-disciplinary process has been followed.

13.7.13 Suspicious Substances

If a substance that appears to be an illegal drug is found within an area under the effective control of an employee (e.g., desk, office, vehicle, worksite, etc.), an

investigation will be conducted by appropriate law enforcement agencies. If warranted, appropriate disciplinary action is taken. The employee may also be subject to criminal charges.

13.7.14 Treatment for Alcohol or Prescription Drug Abuse

Any employee who fails an alcohol test or who has a positive drug test related to the illegal use of a prescription drug the first time must agree in writing to comply with individualized EAP-developed requirements. Employees will be required to cooperate with unannounced testing as directed by the Wellness Manager. If no follow-up testing is specified, the City's testing schedule will be followed. A non-DOT employee must agree to EAP unannounced alcohol and/or drug tests for 12 months, and 24 months for an employee in a DOT safety-sensitive position. Failure to agree in writing and/or failure to successfully comply with the EAP requirements results in the scheduling of a pre-termination meeting.

An employee who fails an alcohol test or tests positive for drugs because of illegal prescription drug use is evaluated by the Wellness Manager for the need to be referred for counseling or treatment.

13.7.15 Employee Drug or Alcohol Treatment

An employee who violates this policy will be referred to a counseling and/or treatment program. Employees who refuse to participate or fail to successfully comply with the counseling or treatment program shall be terminated after an appropriate pre-termination process has been followed.

Failure to successfully comply with a counseling program and/or treatment program may involve any of the following examples, which are not intended to be inclusive:

- Checking oneself out of the program against medical advice.
- Being dismissed from the program.
- Non-compliance in fulfilling the program plan as designed by the program staff/counselors.
- Non-compliance in attending the EAP's required aftercare meetings.

After an employee returns to work following a positive alcohol test or drug test, any subsequent positive alcohol test and/or positive test for the illegal use of prescription drug test will result in the employee being terminated after an appropriate pre-termination process has been followed. Pre-termination process includes gathering the facts and considering all responses and mitigating circumstances that the employee might assert. If it is determined that the employee violated the policy for the second time, and the circumstances do not justify the violation, the employee shall be terminated regardless of the number of years between positive tests. The Wellness Division of the Human Resources Department will maintain record testing records and consult with supervision as needed.

13.7.16 Self-Referral Managed by Employee Assistance Program

Employees may place themselves under formal Employee Assistance Program (EAP) case management as an “EAP self-referral” for chemical dependency (i.e., alcohol or drug-related) problems. Employees who place themselves under EAP case management and comply with this policy will avoid the random testing requirements of the drug and alcohol policy during their treatment.

Employees who place themselves in treatment or counseling for chemical dependency problems without EAP case management, or without notifying the EAP manager in compliance, will NOT be exempted from the random testing requirements. An employee who discusses personal problems and/or chemical dependency problems with a supervisor, chaplain, minister, friend, or coworker did NOT self-refer and will NOT be exempted from random testing requirements. Employees must seek assistance in compliance with this policy in order to qualify for the benefits of EAP self-referral.

Employees who participate in EAP self-referral are required to:

- Sign a "consent to disclose document" allowing the Wellness Manager to contact the appropriate persons in the employee's department.
- Comply with the EAP/treatment/rehabilitation program conditions and directives.
- Report any incidents of relapse, interruption or discontinuation in the rehabilitation program to the Wellness Manager immediately.

An employee may not self-refer after a test (random, post-accident, reasonable cause, promotion/transfer, or EAP follow-up) has been scheduled; however, random drug testing is temporarily suspended during the employee's participation in the rehabilitation program managed by the Wellness Manager. Testing resumes when the rehabilitation program is complete or when the employee failed to comply with the rehabilitation program. An employee will not be disciplined for placing themselves into an EAP self-referral program. However, an employee's self-referral does not prevent the Department director or designee from taking appropriate disciplinary action for the employee's performance or conduct for other work-rule violations.

13.7.17 Non-City-Sponsored Rehabilitation Program Participation

Employees must notify the City's Wellness Manager within five business days after entering rehabilitation programs that are not sponsored or associated with the City. Notification may be by phone, but must be followed up in writing, which includes e-mail. Notification helps ensure that the employee will not be scheduled for a random drug test. Employees who are in a bona fide rehabilitation program (as determined by the City's Wellness Manager), who have complied with the protocols

of the program for 28 days or less, and who test positive while participating in the program, will not be terminated or disciplined. However, the City's Wellness Manager will request an assessment to determine appropriate changes to treatment.

13.7.18 Confidentiality, Records and Retention

Information related to alcohol and drug tests is held in confidence consistent with the provisions of applicable law. The Wellness Manager and the designated Health Clinic retains confidential records relating to the substance abuse program, including training, testing, rehabilitation and litigation records. The Wellness Manager and the Clinic retain test information separate from the employee's personnel file. Records of individuals who pass a test are retained for at least one year. Records of individuals who fail a test are retained for at least five years.

13.7.19 Drug and Alcohol Education

Employees can request the following training through the Human Resources Department related to City drug and alcohol policies:

- Supervisors/Managers/Crew Leaders – The HR Wellness Manager conducts a three-hour Supervisor EAP/Drug/Alcohol (SED) Training throughout the year. This is a mandatory training for all supervisors/managers/crew leaders every three years.
- DOT Supervisors – Supervisors, managers and crew leaders of DOT employees are provided a minimum of 60 minutes of training in recognizing signs of alcohol misuse and a minimum of 60 minutes training in recognizing drug abuse. This is a mandatory training for all DOT supervisors, managers and crew leaders every three years.
- DOT Employees – DOT employees are provided educational material concerning the alcohol misuse and drug abuse rules and a copy of this policy.
- Non-DOT Employees – All employees may attend the SED Training with their supervisor's approval. Other classes on alcohol and substance abuse are available upon request.

13.8 Discrimination and Retaliation

The City of Fort Worth prohibits employment discrimination on the basis of race, color, national origin, sex, pregnancy, transgender, gender identity, gender expression, religious affiliation, political affiliation or belief, age (over 40), sexual orientation, genetic information, veteran status, and disability status (including contagious diseases such as tuberculosis in the non-contagious state and HIV). The City also prohibits retaliation against employees who exercise their statutory rights under state and federal employment laws.

13.9 Harassment-Free Workplace

It is the policy of the City of Fort Worth that employees will be treated with respect by supervisors, other employees, and people who are doing business with the City. Employees have the right to work in an environment free of unlawful harassment. No employee should be subjected to harassment based on race, color, national origin, sex, sexual orientation, transgender, gender identity, gender expression, pregnancy, religious affiliation or belief, age (over 40), disability status, or to unsolicited or unwelcome sexual overtures or conduct, either verbal or physical, while engaged in legitimate City business. Employees must not encourage or condone such overtures or conduct, whether verbal or physical. Any employee who engages in, perpetuates or condones inappropriate behavior is subject to disciplinary action. Likewise, any individuals who are conducting business with the City (contractors, vendors, citizens, interns, volunteers, or agents thereof) are expected to treat employees with respect and to conform to the same workplace standards of conduct as City employees. Immediate and appropriate corrective actions shall be taken in response to harassing behavior toward City employees or by employees toward nonemployees.

Examples of prohibited behavior include: bringing sexually explicit pictures, photographs, cartoons or objects to the workplace or sending them through electronic communications; obscene, profane or abusive language; the sending of sexual, racial, ethnic, religious jokes, cartoons in e-mail, faxes or other forms of communications; making racial, ethnic or religious slurs or demeaning comments; horseplay, pranks, jokes (verbal, electronic, printed or in any other medium) that demean people (individuals) or have sexual, racial, ethnic, religious, or political themes; and bullying behavior, such as unwarranted or invalid criticism/humiliation, yelling at someone, blame without factual justification, exclusion or isolation, excessive (e.g., unnecessary or inequitable) monitoring.

13.9.1 Sexual Harassment

Unwelcome sexual advances, requests for sexual favors, and other verbal (slurs, jokes) or physical conduct of a sexual nature constitute sexual harassment if:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or,
- Submission to or rejection of such conduct by an employee is used as the basis for employment decisions affecting such employee or,
- Such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or offensive working environment.

Supervisors who pressure subordinate employees for sexual favors in return for employment opportunities or benefits will be terminated after an appropriate pre-termination process, if the allegations of harassment are confirmed. A supervisor violates this section if the supervisor grants opportunities or benefits because of a subordinate employee's submission to the supervisor's sexual advances or requests for sexual favors, or if the supervisor denies opportunities or benefits because of a

subordinate employee's rejection or refusal to submit to the supervisor's sexual advances or requests for sexual favors.

Examples of conduct that may constitute sexual harassment, particularly if repeated, pervasive, or severe in nature, include: bringing sexually explicit pictures, photographs, cartoons or objects to the workplace or sending through electronic communications; repeated requests for dates, sexual bantering, jokes or teasing; sexual innuendoes, gestures or leers; touching someone in a way that makes them uncomfortable; stalking or assault.

13.9.2 Harassment Based on Protected Status

Slurs or jokes, and other verbal or physical conduct relating to an employee's protected status, constitute harassment when this conduct:

- Has the purpose or effect of creating an intimidating, hostile or offensive working environment.
- Has the purpose or effect of interfering with an employee's work performance.
- Adversely affects an employee's employment opportunities.

An employee's intentions and motives are not the decisive factors in considering alleged harassment behavior. The effect of one employee's behavior upon another employee is the decisive factor. If an employee's behavior is considered to be offensive by another employee or if it has an intimidating effect upon another employee, harassment based on a protected status may be present. The unwelcomeness, frequency, and severity of the behavior determine whether harassment has occurred.

Employees victimized by harassment that is based on protected status, or any employee who witnesses behavior that appears to rise to the level of harassment should immediately notify the Human Resources Department. For questions about whether harassing behavior meets the definition(s) above, contact the Human Resources Department. Please see *Complaint Resolution* for more information.

13.10 Inappropriate Conduct

This policy prohibits behaviors that may not reach the level of harassment as defined in the City's Harassment-Free Workplace policy, but that nonetheless should not occur and are inappropriate in the workplace. Behavior that may not be as severe or pervasive or may be an isolated incident, for example, may fall under this policy instead of the City's Harassment-Free Workplace policy. Examples of such behavior includes: bringing sexually explicit pictures, photographs, cartoons or objects to the workplace or sending them through electronic communications; obscene, profane or abusive language; terms of endearment such as "doll," "honey," "sweetheart" or "babe"; the sending of sexual, racial,

ethnic, religious jokes, cartoons in e-mail, faxes or other forms of communications; making racial, ethnic or religious slurs or demeaning comments; horseplay, pranks, jokes (verbal, electronic, printed or in any other medium) that demean people or have sexual, racial, ethnic, religious, or political themes. Bullying behavior, such as unwarranted or invalid criticism/humiliation, yelling at someone, blame without factual justification, exclusion or isolation, excessive (e.g., unnecessary or inequitable) monitoring, is also considered inappropriate conduct. Inappropriate conduct does not have to be based on a protected status to be prohibited. Inappropriate conduct is conduct that may not involve physical conduct or may not be as severe or pervasive but is nonetheless inappropriate and or disruptive and will not be tolerated. Inappropriate conduct also includes behavior that negatively impacts or impedes someone else's ability to perform their job duties.

13.11 Violence in the Workplace

The City of Fort Worth is committed to providing a safe and secure work environment. Violent behavior or acts of violence between employees, or such action between an employee and any other person in connection with their City employment, is prohibited.

Any person who engages in violence or threats, verbal or physical, should be removed from the premises as quickly as safety permits. The Department director has the option of placing restrictions on an employee's or citizen's physical access to City premises pending the outcome of an investigation. Department directors must consult with Employee Relations Division, the City Marshal, and the Legal Department before exercising this option.

Employees and supervisors must report threats and violent behavior to department management and contact the Employee Relations Division for guidance. Employees should take personal safety precautions, which may include evacuating employees, and immediately contact the Police Department (call 911) or the City Marshal's Office (871-392-6688) for severe threats or acts of violence.

Workplace violence is behavior sufficiently severe, offensive or intimidating to cause an individual to reasonably fear for his or her personal safety or property. Such behavior creates a hostile, abusive or intimidating work environment. Any personally offensive, threatening or intimidating behavior is not tolerated.

Violent behavior on the job includes, but is not limited to:

- Threatened or actual physical or aggressive contact directed toward another person.
- Intentional destruction or threat of destruction of City or another person's property.
- Expressing intent to cause physical harm or emotional duress.
- Creating a hostile work environment through words, actions or physical contact not resulting in physical harm to another person.
- Surveillance.

- Stalking.
- Veiled threats of physical harm or similar intimidation.
- Expression of suicidal or homicidal intent or thoughts.
- A display of unusual agitation or excitement, possibly accompanied by incoherent and/or irrational behavior that may compromise the safety of others.

Supervisors are expected to offer support to victims of workplace or domestic violence. This support includes encouragement of the victim to use the services of the Employee Assistance Program. Supervisors have discretion to grant a victim leave for medical, court or counseling appointments related to trauma or victimization. Supervisors may also consider special accommodations or adjustments to employee work schedules, locations or working conditions to enhance employee safety.

Reports of violence are handled in a confidential manner, with information released only on a need-to-know basis. This policy prohibits retaliation against any employee who, in good faith, reports a violation of this policy. Every effort is made to protect the safety of anyone who comes forward with concerns about a threat or act of violence. An employee who is being investigated for violent behavior may be removed from the workplace and placed on administrative leave while the matter is being reviewed.

A violation of this policy is a violation of the Employee Conduct provision and may be grounds for disciplinary action up to and including termination. Depending upon the relevant facts, an act of off-duty violent conduct may also be grounds for disciplinary action up to and including termination.

13.12 Notification of Arrest for Certain Offenses

All employees must notify the Employee Relations Division in Human Resources within 48 hours of being arrested or otherwise charged with any felony or misdemeanor offense which involves sexual misconduct, child abuse and offenses involving juveniles, or indecent exposure. Failure to do so may result in disciplinary action up to and including termination. The Human Resources Department will then, in consultation with the Department of Law, determine whether the employee's duties will need to be limited in any way during the pendency of the charges.

13.13 Criminal Convictions

Employees must inform the Employee Relations Division of the Human Resources Department within 24 hours (or at the beginning of the next business day if the 24-hour timeframe would fall on a weekend day or holiday) of notification about criminal convictions (felony, Class A or B misdemeanor). Failure to do so may result in disciplinary action up to and including termination. Upon being informed of a conviction for criminal activity, the Department director or designee will, in consultation with the Human

Resources Department and the Department of Law, determine whether there should be changes to the employee's duties or employment status.

13.14 Firearms at the Workplace

Employees may not carry or possess a firearm in the workplace unless they are required to do so by the City Manager as part of their assigned duties.

Employees licensed by the State of Texas to carry a concealed handgun likewise may not carry or possess a concealed handgun in the course or scope of their employment unless required to do so by the City Manager as part of their assigned duties.

Nothing in this policy is construed to prohibit or regulate the carrying of handguns in employee-owned motor vehicles by an employee.

Any employee violating this regulation will be disciplined, up to and including termination.

If a supervisor discovers or is informed by others that an employee may be carrying a concealed weapon, the supervisor should immediately inform the employee of the City's policy. If the employee is in fact carrying a concealed weapon in violation of this policy, the supervisor should tell the employee to secure the weapon in their personal vehicle and then the supervisor should report the incident to the department's management so that proper action can be taken. If at any time a supervisor or any employee feels threatened by an employee who may be carrying a concealed weapon, the supervisor or employee should call the police or the City Marshal's office and take no action (other than what is necessary for their own safety) until the appropriate authorities arrive.

13.15 Pepper Spray, Mace and Knives

The carrying and/or use of weapons such as pepper spray, mace or a knife during the course of performing work duties must be approved in advance by the Department director or designee and the employee must be knowledgeable about the use of these items. Using these items in a threatening manner is strictly prohibited.

13.16 Theft and/or Misuse of City Property

The City of Fort Worth and its employees can only use City property, equipment, and facilities to provide services for Fort Worth citizens. The use of any City property, equipment, or facility for personal business or gain is forbidden, and any such action could result in disciplinary action up to and including termination after an appropriate pre-disciplinary process has been followed as applicable. Use of electronic equipment is subject to *Administrative Regulation, D-7 Electronic Communications Use Policy*.

13.17 Vehicle Neglect and Abuse

Neglect or abuse of a City vehicle can result in disciplinary action. Policy on the proper use and operation of City vehicles is found in Administrative Regulation, E-6 Use and Operation of City Vehicles. Department directors in departments that have City vehicles may also develop internal policies on the proper use and operation of their vehicles.

13.18 Solicitations

Solicitation by or of City employees on the job without the approval of the Department director or designee or Human Resources Director is prohibited. Prohibitions under this policy do not apply to City-sanctioned solicitations such as the United Way campaign. See HR Advisory: Access to City Employees for more information.

Raffles, auctions or other schemes organized and conducted by an employee for their personal gain or for another individual's gain are not allowed if other employees are solicited to participate or if the activity is conducted during employees' work time. This does not include raffles, auctions or other fund-raising events conducted by employees to raise funds for charities or other special events that are approved for Citywide participation by the City Manager (such as annual food drive, Cowboy Santas and so on).

Individual employee-to-employee selling of goods or products must not be done during work time or interfere with the operation of a department.

13.19 Recordings and Pictures

Employees must have approval from their supervisors before recording conversations or meetings or taking pictures on City-provided or personal devices. Recording conversations or meetings or taking pictures when management is unaware that it is occurring is prohibited and may result in disciplinary action, up to and including termination. An exception may occur if an employee judges that an immediate need to document a health, safety, or City liability concern is present or to document illegal activity, and it is not possible to obtain supervisory approval prior to recording or taking a picture. In such cases, a supervisor must be notified of the incident and provided the recording and/or picture at the earliest possible opportunity following the making of the recording or taking of the picture. For example, if a vehicle accident occurs between a City and private vehicle, the employee may need to take immediate pictures at the scene prior to the vehicles being towed or driven away and obtaining supervisory approval first might not be feasible with a limited timeframe.

13.20 Personal Social Media Usage

The City Manager's Office has approved social networking site access in the belief that these communication tools can be utilized to provide better services to the community. Additionally, this contributes to having a technology proficient workforce that know not only how to use the tools but also when to use the tools.

It is the responsibility of City employees who have personal social media accounts and web logs (blogs) to:

- Any person identified as an employee of the City of Fort Worth on a publicly accessible site is expected to maintain an online image that would encourage the public to have confidence in that employee. Employees should avoid posting subject matter that would likely impair the trust of the public, including public intoxication, illegal drug activity or other criminal activity, and slandering or defaming public officials, appointees or other City employees.
- Never use social media accounts while on duty in a way that interferes with productivity or impairs on-the-job performance.
- Posting sensitive or confidential information about official City business to personal social media sites or City-authorized accounts is prohibited.

14. Complaint Resolution

14.1 Purpose and Introduction

The City of Fort Worth endeavors to provide resources to assist employees who have disagreements and conflicts with other employees or supervisors. These resources range from facilitating personal discussions to resolving conflicts informally, to investigating complaints of discrimination, retaliation, or harassment. Other resources are only available to employees who have passed their six-month initial probationary period, are regular employees (not temporary, part time, or seasonal), and work in certain positions, as explained in other sections of this policy. These resources include reviews and appeals of disciplinary suspensions, demotions, disciplinary probations, and terminations.

The complaint resolution procedures do not provide legal rights to employees. The procedures implement the Fort Worth City Code and may be rewritten by the City Manager at any time, for any reason.

The complaint resolution procedures serve as guidelines to process grievances, appeals and discrimination complaints. The Human Resources Director or designee may waive procedural rules for good cause. Failure of the City to follow the guidelines does not prevent the City from imposing discipline on employees, up to and including termination. The City gives employees an opportunity to discuss complaints with their supervisors to reach a satisfactory resolution. In the presentation of grievances, appeal and complaints, the City endeavors to provide a process in which employees are free from retaliation, restraint, interference, discrimination or reprisal. Early resolution is encouraged and can be negotiated at any step in the grievance, appeals, and complaint procedure.

The City of Fort Worth has management rights. These rights include the daily management of operations, direction of the work force, maintenance of discipline and the efficient use of the work force. More specifically, but not limited herein, management rights include the authority: to hire and to determine employees' qualifications and ability; to determine the number and location of facilities and employees; to assign work; to question and or clarify job tasks, give work-related directives; to transfer, promote and lay off employees; to evaluate employees and grant salary increases; to create, modify and abolish job classes, class specifications and job duties; to change or eliminate existing operations, methods, equipment or facilities; to contract out work; to schedule working hours within the work week; to approve or deny use of accrued leave; to schedule rest and lunch periods, and to establish and enforce reasonable rules and regulations. Complaints that involve management rights are not processed unless the complaint describes a discrimination or retaliation issue. Management rights are not grievable matters.

Employee performance evaluation ratings and merit increase issues are not grievable items with Human Resources under the complaint resolution processes described in this chapter unless the issues are the basis of a complaint of illegal discrimination or retaliation. An employee can discuss concerns with their performance evaluation with their supervision.

The Human Resources Director or designee makes sure complaints follow established procedures. The Human Resources Director or designee makes the final decisions pertaining to complaint resolution procedures, application, interpretation and implementation.

For questions about this chapter, please call the Employee Relations Manager.

14.2 Complaints of Unfair Treatment

This section applies to all general employees, whether they are probationary, regular, part time, seasonal, or temporary.

Employees who have complaints or disagreements with supervisors or general concerns of unfairness should first discuss their concerns with their supervisors and their departmental supervisory chain to resolve the matter. But an employee may bypass the supervisor to file a complaint against that supervisor.

Employees who have complaints (e.g., wage or overtime issues, workplace environment issues, FMLA issues, etc.), disagreements with supervisors or co-workers, or general concerns of unfairness may contact the Employee Relations Division of the Human Resources Department. Only complaints of unfair treatment (i.e., those that do not rise to the level of a violation of the discrimination or harassment policy) involving matters that occurred in the previous three months from the report date will be reviewed. The investigators may use their judgment and decide to review matters that occurred more than three months prior to the report date, depending on the severity of the complaint, and the reasons for the delay in filing a complaint. Complainants must cooperate in the investigation and provide timely and accurate information relevant to the complaint as requested by the investigators. Failure of the complainant to cooperate may result in administrative closure of the complaint. Dependent on the nature, frequency, and severity of the matters presented in the complaint, it may also be determined that the complaint is referred to the employee's department for review and action as appropriate. The Employee Relations Division of the Human Resources Department will provide notification of the outcome of the complaint to the complainant, whether verbally or in writing. Written notification of the outcome of a complaint to the complainant will be dependent upon the nature of the complaint and may not always be provided. In such cases, verbal notification may be made. If written notification of the outcome is provided, it will provide information on a need-to-know basis and details of actions taken with employees other than the complainant will not be included.

14.3 Discrimination, Retaliation, Harassment Complaints

This section applies to all employees, whether they are probationary, regular, part time, seasonal, or temporary, and regardless of their assignment, title, or position with the City.

For purposes of this section, “discrimination” refers to illegal discrimination that is based on any of the protected classes as defined in the *Glossary*.

Employees who have a request for accommodation regarding the Americans with Disabilities Act Amendments Act of 2008 may confer with the Disability Program Coordinator pursuant to the *Reasonable Accommodation Review and Resolution for Persons with Disabilities* section of this chapter.

For a definition of harassment and more information about harassment, please refer to the *Harassment-Free Workplace* policy in Chapter 13 and/or the *Glossary*. Harassment is determined by how unwelcomed, distressing or unpleasant the behavior is to the complainant and the frequency and severity of the inappropriate behavior.

Retaliation refers to an adverse employment action that is alleged to be motivated by the following protected activities:

- The employee has taken leave under Family and Medical Leave Act (FMLA), or the employee has filed a charge, instituted a proceeding, given information in connection with an investigation under the FMLA, or testified or is about to testify in a proceeding related to the rights provided for under the FMLA.
- The employee has filed a complaint or instituted any proceeding, either with the Fort Worth Human Resources Department or the Department of Labor, regarding payment of wages and overtime under the Fair Labor Standards Act (FLSA).
- The employee has filed a discrimination charge or complaint based on a protected class (see *Glossary*) with the Equal Employment Opportunity Commission, Texas Workforce Commission, the Fort Worth Human Relations Commission, or the Fort Worth Human Resources Department.
- The employee has opposed an illegal discriminatory practice based on a protected class (see *Glossary*) by testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing. The employee alleging retaliation under this provision does not have to belong to a class protected by the underlying law.
- The employee made a good faith report of sexual harassment as defined by the City’s Personnel Rules and Regulations.
- The employee exercised rights or made a complaint to his/her department or the Human Resources Department based on the employee’s veteran status

under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA).

- Whistleblower complaints*

**While also a protected activity, this type of alleged retaliation has a different complaint process, explained in this chapter, below.*

The complaint process provides an avenue for employees to report allegations of discrimination, retaliation, and/or harassment. It is against the policy of the City of Fort Worth to retaliate against any individual who reports discrimination or harassment, opposes a discriminatory practice, or participates in an investigation of such reports.

Any complaint alleging discrimination, retaliation or harassment shall be construed as a claim against the City of Fort Worth. Any employee may file a complaint with the Employee Relations Division alleging discrimination or retaliation if that person has received an employment action that is perceived to be adverse (e.g., discipline, transfer, substandard performance evaluation). Employees who have resigned or who have been terminated may also file retaliation and discrimination complaints.

Complaints filed by a General employee alleging discrimination, harassment or retaliation by a sworn Police Officer may be filed with either the Human Resources or Police Department and may be co-investigated by an assigned investigator from both departments. Complaints filed in all other situations shall only be investigated by the Employee Relations Division. Individual supervisors shall not investigate complaints of discrimination, harassment, or retaliation, but must refer all complaints to the Employee Relations Division.

A discrimination, harassment, or retaliation complaint will be considered a claim against the City of Fort Worth, and will be investigated for review and advice of legal counsel unless otherwise determined facially invalid by Employee Relations.

Complaints must be filed in writing with the Human Resources Department's Employee Relations Division. The date the complaint is received by the Human Resources Employee Relations Division will be considered the date the complaint is filed. All reports must include the following information:

- Contact information, including name, address, and telephone number of the Complainant.
- The Complainant's employee number and position (or former position) with the City.
- The nature of the alleged adverse employment action taken against the Complainant.
- The date of the alleged adverse employment action taken against the Complainant.
- The name of the employee's supervisor.
- The name of the individual who allegedly caused an adverse employment action.
- The facts that are the basis for the complaint, including dates that incidents occurred and names of individuals who may have knowledge of the facts.

Deadlines

The date the complaint is received by the Human Resources Employee Relations Division will be considered the date the complaint is filed.

An employee must file a complaint of discrimination, harassment, or retaliation for filing a complaint of discrimination or harassment, opposing a discriminatory practice, or participating in an investigation of discrimination within 300 days of the date the adverse employment action occurred or was discovered by the employee through reasonable diligence.

Filing and investigation of complaints

Complaints must be filed in writing with the Human Resources Department's Employee Relations Division. All reports must include the following information:

- Contact information, including name, address, and telephone number of the Complainant.
- The Complainant's employee number and position (or former position) with the City.
- The nature of the alleged adverse employment action taken against the Complainant.
- The date of the alleged adverse employment action taken against the Complainant.
- The name of the employee's supervisor.
- The name of the individual who allegedly caused an adverse employment action.
- The facts that are the basis for the complaint, including dates that incidents occurred and names of individuals who may have knowledge of the facts.

Complainants must cooperate in the investigation and provide timely and accurate information relevant to the complaint as requested by the investigators. Failure of the complainant to cooperate or provide accurate information during the investigation process impedes the ability of the investigators to conduct a thorough review and will be noted in the findings as appropriate. It is the Complainant's responsibility to update contact information, in the event of a change.

Investigation findings, decisions and recommendations are made on a case-by-case basis. The Human Resources Department, with the Department of Law, decides how the incident/allegation/complaint is investigated. Appropriate disciplinary action is taken when the findings warrant it. The disciplinary action is decided upon in an executive summary meeting with representatives from Law, Human Resources and the Department director or designee. If disagreement exists among the representatives, the Department's Assistant City Manager determines the disciplinary action.

At the conclusion of the investigation, the Employee Relations Division will report the findings to the employee's Department director or designee, who will take action

appropriate to the findings and notify the Complainant in writing of the decision and action taken. The Department director's response is final, concludes the complaint procedure, and may not be appealed.

Details regarding the outcome and any relevant disciplinary action will be kept confidential to the extent allowed under Texas law. In general, any details regarding relevant disciplinary action would not be shared with anyone other than the employee receiving the discipline and their supervisor in an effort to maintain confidentiality. An employee who commits any serious breach of confidentiality under this policy may be disciplined, up to and including termination. Any employee who engages in retaliatory actions as defined in this policy may be disciplined, up to and including termination.

14.4 Whistleblower Complaints

It is against the policy of the City of Fort Worth for any supervisor to take an adverse employment action against an employee because the employee made a good faith report of a violation of law by a government entity or a public employee under the Texas Whistleblower Act, Section 554 of the Texas Government Code.

An employee must file a complaint of retaliation for reporting a violation of law by a public employee ("whistleblower" complaint) not later than the 90th day after the date on which the alleged adverse employment action occurred or was discovered by the employee through reasonable diligence.

Filing and investigation of complaints

Complaints must be filed in writing with the Human Resources Department's Employee Relations Division. All reports must include the following information:

- Contact information, including name, address, and telephone number of the Complainant.
- The Complainant's employee number and position (or former position) with the City.
- The nature of the alleged adverse employment action taken against the Complainant.
- The date of the alleged adverse employment action taken against the Complainant.
- The name of the employee's supervisor.
- The name of the individual who allegedly caused an adverse employment action.
- The facts that are the basis for the complaint, including dates that incidents occurred and names of individuals who may have knowledge of the facts.

Complainants must cooperate in the investigation and provide timely and accurate information relevant to the complaint as requested by the investigators. Failure of the complainant to cooperate or provide accurate information during the investigation process impedes the ability of the investigators to conduct a thorough review and will be noted in

the findings as appropriate. It is the complainant's responsibility to update contact information, in the event of a change. This is a prerequisite to suit under the Texas Whistleblower Act.

Investigation findings, decisions and recommendations are made on a case-by-case basis. The Human Resources Department, with the Department of Law, decides how the incident/allegation/complaint is investigated. Appropriate disciplinary action is taken when the findings warrant it. The disciplinary action is decided upon in an executive summary meeting with representatives from Law, Human Resources and the Department director or designee. If disagreement exists among the representatives, the Department's Assistant City Manager determines the disciplinary action.

At the conclusion of the investigation, the Employee Relations Division will report the findings to the employee's Department director or designee, who will take action appropriate to the findings and notify the Complainant in writing of the decision and action taken. The Department director's response is final, concludes the complaint procedure, and may not be appealed.

Details regarding the outcome and any relevant disciplinary action will be kept confidential to the extent allowed under Texas law. In general, any details regarding relevant disciplinary action would not be shared with anyone other than the employee receiving the discipline and their supervisor in an effort to maintain confidentiality. An employee who commits any serious breach of confidentiality under this policy may be disciplined, up to and including termination. Any employee who engages in retaliatory actions as defined in this policy may be disciplined, up to and including termination.

14.5 Grievances and Appeals

A grievance is a formal protest over suspensions without pay of ten days or less, reductions in pay rate that result in a reduction of ten days' pay or less, deletion of accrued vacation leave, and disciplinary probation. Grievances cannot be filed complaining of documented oral and written warnings.

An appeal is a formal protest over a disciplinary dismissal, demotion or suspension of more than ten days, or a reduction in pay rate of more than ten days' pay. When presenting appeals, employees are free from retaliation, restraint, interference, discrimination or reprisal.

The following City officers and employees may not file grievances or appeals under this section:

- The Mayor, members of the City Council and members of appointive boards.
- The City Manager and the Assistant City Managers.
- The Department directors, Assistant Department directors, division heads (including Managers, Superintendents).

- Municipal court system judges.
- City Internal Auditor.
- City Secretary.
- Temporary employees.
- Employees who are in their initial probationary period.
- The City Attorney.
- Assistant attorneys in the Department of Law.
- Employees who are covered by civil service.

All parties who are involved in the filing, processing and investigating of grievances or appeals are expected to provide full and complete information relevant to the review. Information intentionally withheld during the review process, to be presented later in the process, will not be considered. Full and timely disclosure is expected.

If the employee alleges that illegal discrimination, harassment, or retaliation was the basis of the action taken by the department that they are grieving or appealing, the employee must disclose the discrimination or retaliation allegations by providing the information required above in the *Discrimination, Retaliation, Harassment Complaints* section.

If an employee and/or the employee's representative fails to cooperate during the process (e.g., fails to attend a scheduled hearing without notice or fails to provide information needed to schedule a hearing with the Employee Relations Division) or displays a pattern of inappropriate or unprofessional conduct, the Human Resources Director has the authority to close the grievance or appeal. The Human Resources Director's decision is final.

The aggrieved employee must contact the Human Resources Department Employee Relations Division within five business days of the receipt of the discipline to make a notification that they would like to file a grievance or appeal, as appropriate. The aggrieved employee must then meet with the Employee Relations Division at a time established by Employee Relations to file a grievance or appeal. During the intake meeting, the employee's eligibility to file a grievance or appeal is determined. If the employee is eligible to file a grievance or appeal, process is explained to the employee. The employee is given the following forms, which must be completed and returned by the prescribed deadline:

- A one-page summary of the process for the employee's reference.
- A Grievance/Appeal form.
- A form regarding the employee's representative and contact information, the need for an interpreter and an acknowledgement that the intake meeting has occurred.

14.5.1 Deadlines and Extensions

If the employee fails to pursue a grievance or appeal within the time limits set, the grievance or appeal will be considered settled, based upon the last answer given by

the supervisory representative of the City. If the City fails to respond to the grievance or appeal within the time limits set and a reasonable explanation is not given, the grievance or appeal is automatically moved up to the next step in the procedure if so desired by the grievant/appellant.

If either party wishes to have an extension, a written request (explaining the reason(s) for the request) must be submitted to the Employee Relations Division before the step's original deadline. The request will be reviewed and approved or denied. No extension may last more than ten working days unless the employee alleges that illegal discrimination, harassment, or retaliation was the basis of the action taken by the department that they are grieving or appealing. In such a case, the investigators assigned to the grievance or appeal can request an extension of up to thirty working days. Only one extension request per step by either party may be granted.

14.5.2 Grievances

A grievance is a formal protest over suspensions without pay of ten days or less, reductions in pay rate that result in a reduction of ten days' pay or less, deletion of accrued vacation leave, and disciplinary probation. Grievances cannot be filed complaining of documented oral and written warnings.

14.5.2.1 Grievance Process

Step 1: Grievance Investigation

The Department director designates an employee to conduct an investigation with the Human Resources Department. Departmental investigators should be manager level or above. The investigation team should meet with the aggrieved employee to discuss the issues before a written decision is prepared. The team has fifteen working days to gather facts, speak with pertinent witnesses, and attempt to secure a resolution and respond in writing with their decision. Upon resolution, a settlement is written and signed by the departmental and Human Resources investigators.

The grievance decision is mutually agreed upon by both Human Resources and the Department delegate. The two departments may not appeal the resolution. All parties must comply with the settlement. If Human Resources and the Department delegate cannot agree on a resolution, the grievant will be notified and will have the option to proceed to Step 2 of the grievance process.

Copies of the signed settlement are distributed to the employee, Department director and Human Resources Department. The Human

Resources Department's Employee Relations Division maintains the complete file.

An employee, whose discipline is completely rescinded or modified to a level of discipline that is not grievable may not grieve the result. A letter of rebuttal may be added to the disciplinary documentation however it must only address relevant issues or it may be rejected by the Human Resources Director.

Step 2: Grievance Review

Failure to resolve the employee's grievance at Step 1 results in his or her option to proceed to Step 2 or discontinue the grievance. If the employee decides to proceed, the employee must contact the Human Resources Department's Employee Relations Division in writing within ten business days after the Step 1 response is sent to proceed with a review by the City Manager's Office. Once a request to progress to Step 2 is received, the Employee Relations Division will forward the request and related materials from Step 1 to the City Manager's Office, who will then have 10 days (or as soon as is practicable) to formulate a determination and respond to the Human Resources Director in writing.

If the City Manager's secretary files a grievance, the final decision will be made by the City Council Inter/Intra-Governmental Affairs Committee, rather than the City Manager.

Copies of the signed settlement are distributed to the employee, Department director and Human Resources Department. The Human Resources Department's Employee Relations Division maintains the complete file.

14.5.2.2 Termination or Resignation

Employees who are terminated or who resign their employment with the City forfeit their right to have access to the Grievance Process. Any grievance being processed at the time of resignation or termination may not be processed and may be administratively closed. A grievance will continue to be investigated as part of the appeal process if the employee is terminated and files an appeal of the termination. Otherwise, the grievance will be administratively closed.

Employees who resign still have access to the discrimination/retaliation/whistleblower complaint processes, even if their grievances are closed.

14.5.3 Appeals

An appeal is a formal protest over a disciplinary dismissal, demotion or suspension of more than ten days, or a reduction in pay rate of more than ten days' pay. When presenting appeals, employees are free from retaliation, restraint, interference, discrimination or reprisal.

14.5.3.1 Steps for Filing an Appeal

Step 1: Appeal Investigation

The Department director designates an employee to conduct an investigation with the Human Resources Department. Investigators must be manager level or above. The investigation team should meet with the aggrieved employee to discuss the issues before a written decision is prepared. The team has fifteen working days to gather facts, attempt to secure a resolution and respond in writing with their decision. Upon resolution, a settlement is written and signed by all parties.

If the appeal decision is mutually agreed upon by both Human Resources and the department representative, neither department may appeal the resolution and all parties must comply with the settlement. If Human Resources and the department representative cannot agree on a resolution, a meeting is held with the Human Resources Director and Department director to arrive at a settlement.

Copies of the signed settlement are distributed to the aggrieved employee, Department director and Human Resources Department. The Human Resources Department's Employee Relations Division maintains the complete file. If the employee agrees with the settlement between the Departments, all parties must comply with the settlement. If the employee does not agree, and the settlement is for a disciplinary action more severe than a written reprimand, the employee may proceed with Step 2.

Step 2: Appeal Hearing

Failure to resolve the employee's appeal of a disciplinary dismissal, demotion, suspension of more than ten days, or a reduction in pay rate of more than ten days' pay results in his or her option to proceed to Step 2 or discontinue the appeal. If the employee decides to proceed, the employee must contact the Human Resources Department's Employee Relations Division in writing within ten business days after the Step 1 response is sent to proceed with a hearing before a hearing officer. The Human Resources Director or designee schedules and convenes the hearing. Hearings must be held within 90 days from the date of the request to proceed to Step 2. A Notice of Public Hearing will be posted at least 72 hours before the hearing, in accordance with state law. Compelling

reasons for a hearing to be held after 90 days from the date of the request to proceed to Step 2 may be considered by the Employee Relations Manager.

The hearing officer only considers the issues that are contained in a written statement from the Department of Law stating the charges against the appellant and the rationale for the action taken. The employee is allowed, but not required, to file a position statement at the beginning of the hearing. Evidence presented at the hearing by either party must directly relate to those issues.

The hearing officer has subpoena power, and witnesses may be summoned by either party or by the hearing officer. Requests for the issuance of subpoenas must be received by the Human Resources Department at least three working days before the hearing date. (Employees summoned to testify are paid for their time at the hearing.) The rules of evidence do not apply but may be consulted for purposes of assessing the appropriate weight and credibility to attribute to evidence, and as a guide for limiting evidence that is repetitive or not relevant.

The hearing is audio recorded and maintained in City records as a part of the employee's appeal file for two years. Either party, at its own expense, can have a court reporter record the proceedings.

Both parties may represent themselves or they may be represented by a person of their choice. Attorneys may represent either party.

In nearly all appeals, the hearing is limited to one day, but may be extended to a maximum time limit of two days upon request of either party if the Employee Relations Division determines that the amount of evidence is likely to require the additional day. Each party will be given a maximum of one day to present its case. The time that each party expends on examination, cross-examination, and oral argument will be counted against that parties' time limit. Ordinarily, a typical day will include a maximum of seven hours on the record. Lunch periods and rest breaks are not counted against either parties' maximum. If either party asks for a recess other than an agreed rest break (such as consulting witnesses or making copies), the time will be counted against that parties' maximum time limit.

No later than five business days before the hearing, the City will provide to the employee a copy of the employee's personnel file from Human Resources, as well as a copy of the Department's documentation of the incidents that form the basis of the termination. The City will also provide a copy of the Employee Relations Division investigation file for the Step 1 review. In all the documents provided, the following documents and

information will be withheld: attorney/client privileged communications, confidential and personal information of other employees (such as Social Security numbers and family information). Unless the parties make other agreed arrangements, the documents will be in digital format (such as CD or DVD), will be in pdf, and will be mailed.

No later than five business days before the hearing, the parties will exchange witness lists, exhibit lists, position statements, and a copy of documents and other exhibits that are expected to be introduced as evidence. Unless the parties have made other agreed arrangements, the information will be in digital format (such as CD or DVD), will be in pdf, and will be mailed.

Order of Proceedings

The hearing officer presides over and directs the hearing. The hearing officer may question the witnesses and ask questions about the documentary evidence to clarify statements and to ensure their understanding of the points presented.

The Department representative and the appellant present opening statements. The first opening statement is given by the party who has the burden of proof. Each party has ten minutes to briefly outline its position.

The Department representative and the appellant must present their evidentiary information (witness testimony and documentary material) as needed throughout the course of the hearing, but prior to closing statements. The party who has the burden of proof is first to present evidentiary information. Witness testimony should be pertinent to the issues being reviewed as part of the appeal process only. Witness testimony speaking only to a party's character is discouraged, unless the hearing officer determines that character evidence would serve a compelling purpose, such as in assessing a witness's truthfulness, or in weighing controverting evidence.

Each party may examine and cross-examine witnesses, question statements, and present documentary evidence and testimony. After the presentation of evidentiary information by both parties, each party (Department representative and then the appellant) has ten minutes for closing statements. Closing statements should identify the conclusions each party believes the evidence shows. The party with the burden of proof is last to give a closing statement. The hearing officer adjourns the hearing after both parties complete their closing statements. Hearings may be limited to a two-day or 14-hour maximum time limit, whichever is more. After two days or 14 hours of hearing proceedings (whichever is more), the hearing shall be administratively closed by the Human

Resources Director and the hearing officer's recommendation will be made on the information that was presented to that point.

Within ten working days after the appeal hearing, or as soon thereafter as practicable, the hearing officer prepares written findings and recommendations to be sent to Employee Relations who forwards them to the Human Resources Director, who forwards them to the City Manager or designee. Employee Relations will disclose the hearing officer's findings and recommendations only after the City Manager has made a final decision.

The City Manager, or a designee who is not in appellant's chain of command, reviews the hearing officer's findings and recommendations to determine whether to accept, modify or reject the recommendation. The City Manager's or designee's decision is final. The decision is forwarded to the Human Resources Department. Appellant, employee representative and Department delegate are prohibited from initiating contact with the City Manager or designee regarding the appeal while the appeal is being reviewed.

Upon receiving the City Manager or designee's decision, the Human Resources Director or designee forwards copies of the hearing officer's findings and recommendations, and the decision by the City Manager or designee, to the appellant (and representative, if applicable), Department director and the Human Resources Department. The Human Resources Department maintains a complete case file, which will include an audio recording of the hearing and a copy of all the exhibits that are entered into evidence at the hearing.

A terminated employee who is reinstated as a result of an appeal cannot appeal or grieve a lower-level discipline that is issued as part of their reinstatement. An employee whose discipline is completely rescinded or modified may not appeal or grieve a lower level of discipline that is issued as part of the appeal or grievance. A letter of rebuttal may be added to the disciplinary documentation; however, it must only address relevant issues, or it may be rejected by the Human Resources Director.

Hearing Officer Finding, Recommendations, and Authority

Hearing officer findings and recommendations must be based upon a preponderance of the evidence (by the greater weight of the evidence presented).

The Department representative has the burden of proof, by a preponderance of the evidence, to show that the employee committed the alleged violations, and that the level of discipline was appropriate. If the

appellant alleges that discrimination, harassment, or retaliation was the basis of the action, the burden of proof rests upon the appellant, who must establish by a preponderance of the evidence that discrimination, harassment, or retaliation occurred.

If the hearing officer determines that the disciplinary charges are sustained, the hearing officer recommends whether the good of the City requires that the appellant be permanently discharged, be suspended without pay for a definite time period or demoted from a higher to a lower position. If the hearing officer determines that the disciplinary charges are not sustained, the hearing officer recommends that the appellant be made whole.

Such recommendations are limited to a statement of whether the disciplinary charges against the appellant are sustained or not sustained, and the action recommended concerning the appeal. The hearing officer may recommend that an appellant be awarded all or part of his or her back pay when it is found that such action would be appropriate. (See *Damages* below for further information.)

The findings and recommendations of the hearing officer are public record.

The hearing officer can close an employee's appeal if the employee misses a hearing without notice or good cause or does not provide contact or other information needed to schedule a hearing.

Hearing Rescheduling

Either party may request to reschedule the hearing by notifying the Employee Relations Division no later than 72 hours before the time of the hearing. Failure to request a rescheduling in less than 72 hours before the time of the hearing may result in the appellant being charged a \$100 cancellation fee that will be used toward any payments to the hearing officer for short cancellation notice. A maximum of two rescheduling requests for the grievant or appellant may be granted. (Hearings rescheduled at the appellant's request reduce possible damage awards.) If, in the Human Resources Director's or designee's judgment, the request is reasonable, the hearing will be rescheduled. Requests that are deemed unreasonable are submitted for administrative closure to the Human Resources Director, whose decision is final.

When a Step 2 appeal hearing is rescheduled at the request of the appellant, any back pay and/or benefit awards are calculated from the originally scheduled hearing date. Rescheduled hearings that are initiated

by the City do not reduce back pay or benefit awards. The appellant will not be penalized if the City causes the hearing to be rescheduled.

Damages

The hearing officer may make a recommendation regarding a reasonable back pay and benefits award during the Step 2 process. Appellants are expected to make reasonable efforts to mitigate (i.e., minimize) their back pay losses by seeking alternate employment after termination but before reinstatement. The City Manager makes the final determination on these matters, and on any offset or effect of any failure to mitigate back pay losses by seeking alternative employment. No punitive relief, attorney's fees or other such relief can be awarded to appellants

Back pay awards are limited to actual monetary losses of back pay and benefits. Back pay awards are offset by any income the former employee earned in the interim between the termination and the reinstatement. If no income has been earned, the appellant must provide evidence of a good faith effort to locate other employment before the City pays full back pay. If the appellant cannot provide such evidence, the City Manager may reduce the back pay by an amount the appellant could reasonably have earned if he or she had made reasonable attempt to locate other employment.

14.5.4 Reinstatement and Backpay

Reinstatement occurs when an employee appeals an involuntary termination or involuntary separation from employment (e.g., layoff, reduction in force, etc.), the appeal is granted, and the employee returns to work as a result of prevailing in the appeal. The service record of reinstated employees will reflect a break in service when full back pay is not awarded. Accrued leave benefits not paid at termination are reinstated and immediately available to the employee, unless the terms of the reinstatement specify otherwise. If the reinstatement provisions are silent on relevant reinstatement matters, those matters are processed as if full back pay was not awarded. Employees who are terminated are expected to make a good faith effort to find interim employment, in order to mitigate Fort Worth's back pay liability. If any back pay is awarded, the award will be reduced by the amount of income that the employee received, or should have received, during the appeal. Disagreements regarding the amount of offset will be determined by the City Manager. In cases where an employee has been reinstated following an appeal of a termination, any back pay awards should be reported to the Employee's Retirement Fund.

14.6 Reasonable Accommodation Review and Resolution for Persons with Disabilities

Individuals who believe the City is not in compliance with the Americans with Disabilities Act Amendments Act of 2008 (ADAAA), or who have been denied a requested reasonable accommodation under the ADA, may file a complaint with the City's Disability Program Coordinator in the Human Resources Department.

Employees can call the Disability Program Coordinator to request disability services, or with questions, concerns or complaints about facility accessibility, services, programs or activities related to disabilities. If the matter is not resolved through informal channels, a written complaint may be filed. The Disability Program Coordinator or designee researches the facts related to the complaint and responds to the complainant in writing. If the Complainant is not satisfied with the outcome, a written request for further review by the City Manager's Office must be submitted to the Human Resources Director within ten business days after receipt of the Disability Program Coordinator's response. The City Manager or designee reviews the matter and prepares a final written response that is sent to the Complainant as soon as practicable.

14.7 Employee Representation

Requests from employees for representation may only be granted at the discretion of the Department director or designee. If approved, employees may have one representative during the complaint resolution process that is limited to investigatory interviews, meetings and attending grievance or appeal hearings.

City employees, excluding supervisors and above, may represent other City employees not assigned to their same department. If an employee represents another employee, time spent as a representative during work hours is charged against the representative's personal leave time as applicable. If no personal leave time is available, the time logged is without pay.

If at any time the meeting organizer determines the employee's representative is disruptive or uncooperative, the employee will no longer be permitted to have representation.

15. Glossary

Below is an alphabetical list of terms used in this manual along with their definitions.

Accredited school - An educational institution approved by the Southern Association of Schools or its regional counterparts, or a technical training school or college approved by the Accrediting Commission of Career Schools or Colleges of Technology.

Additional shift - A shift assigned to or directed to be worked by an employee to replace an absent employee or to provide adequate staffing for an event or activity. The assignment may be for a full or partial shift and must be approved by a supervisor.

Administrative leave - A type of paid leave used when an employee is temporarily relieved of his or her normal responsibilities, continues to receive regular pay and benefits, and is normally required to remain at home during regular work hours. This leave type is not charged against the employee's personal leave balances.

Adverse employment action - Action that materially affects the terms, conditions or privileges of employment.

Alcohol test - A scientifically recognized chemical test that establishes an individual's breathe alcohol level.

Aliquot - A portion of a specimen used for testing.

Alternate duty assignment - For the Return to Work policy, "Alternate Duty Assignment" is a job redesign or a placement to meet the needs and abilities of the individual, with work restrictions as determined by their treating physicians.

Appeal - A formal protest of a disciplinary dismissal, demotion, or suspension of more than 10 days.

Average weekly wage (AWW) - The sum of all forms of remuneration paid to the injured employee for personal services in the 13 consecutive weeks immediately preceding the date of the injury divided by 13.

Bona Fide Offer of Employment (BFOE) - An offer of employment to an injured employee who is returning to work with restrictions to duty as determined by an examining doctor and the return to work is for a modified duty assignment (light duty, limited duty, or alternate duty). The BFOE meets the requirements specified in Rule 129.6, "*Bona Fide Offers of Employment*," of the Texas Administrative Code.

Business days - Monday through Friday, between the hours of 8 a.m. and 5 p.m., excluding City holidays.

Certification - In the case of the education pay for Marshals, certification is confirmation that a Marshal in the City Marshal's Office has met the State requirements of varying levels of competency to qualify for Education/Certification Pay.

Certification incentive pay - Extra Pay for successful completion of certified courses by the Texas Commission on Fire Protection Personnel Standards and Education (TCFPPE) or the Texas Commission on Law Enforcement and Education (TCOLE).

Chain of custody - Procedures to account for the integrity of each urine specimen by tracing its handling and storage from point of specimen collection to final disposition of the specimen, utilizing an approved City chain of custody from the time of collection to receipt by the laboratory,

and upon receipt by the laboratory, an appropriate laboratory chain of custody form(s) to account for the sample or sample aliquots within the laboratory (chain of custody forms, at a minimum, include an entry documenting date and purpose each time a specimen or aliquot is handled or transferred and identifying every individual in the chain of custody).

Chargeable collision - One in which the employee's negligence, driver's error or traffic violation either caused or significantly contributed to the occurrence of the collision.

City - The City of Fort Worth.

Coded hours - Paid time that have payroll codes for other than actual "hours worked." Coded hours include pay for vacation leave, short-term sick/family leave, major medical sick leave, wellness leave, occupational injury, jury or court duty, military leave, compensatory time or holidays that fall on an employee's regular day off, holiday premium pay, donated leave or any other pay that is not for time worked. Coded hours also include time paid as a result of some "hours worked" such as emergency call back pay. Coded hours are not considered to be hours worked for the calculation of overtime hours. Paid time off on holidays, holiday leave and personal holiday leave are an exception to coded hours. These hours are treated as "hours worked" for the calculation of overtime hours.

Collective bargaining - A bilateral process for achieving a collective agreement between an employer and an accredited representative of employees concerning wages, hours and other conditions of employment.

Commercial Driver's License (CDL) - A license issued by the State to authorize an individual to operate a class of commercial motor vehicle.

Compensation - Payment of an income benefit in accordance with the Labor Code, Chapters 408, 409, and 504, and in accordance with Chapters 126 through 132 of the Rules.

Compensable injury - An injury or occupational disease that arises out of and in the course and scope of employment for which compensation is payable in accordance with the Labor Code.

Confirmatory test - A second analytical procedure conducted after the result of an initial test is positive, to identify the presence of a specific drug or metabolite (this test is independent of the initial test and uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy). At this time, gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.

Counseling - An informal discussion between a supervisor and employee about the need to improve minor performance problems, or as a reminder of a policy violation.

Course and scope of employment - An activity of any kind or character that has to do with and originates in the work, business, trade, or profession of the employer (City of Fort Worth) and that is performed by an employee while engaged in or about the furtherance of the affairs or business of the employer.

Covered service member - For the purposes of the FMLA, a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness or a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness, and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

Customer - Any person, firm or business that purchases, obtains or receives information, commodities or services from the City.

Daughter - For the purposes of the FMLA, a daughter is a biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in place of a parent (in loco parentis), who is under 18 years of age or is 18 years or older and is incapable of self-care because of a mental or physical disability.

Day - A consecutive 24-hour period of time within a workweek beginning at 12:01 a.m. For full-time employees, a day means up to eight hours within the 24-hour period of time for the purpose of defining time not worked during an employee's normal work shift. While an employee may be scheduled to work any number of hours during a workday, a day for the purpose of leave, time off work and compensation is up to a maximum of eight hours. For example, a day off work for a full-time employee for vacation, major medical sick leave, military leave, holiday, disciplinary leave, etc. would be a maximum of eight hours. A day for a part-time employee is the ratio of hours worked in a week to 40 hours. For example, an employee who works 20 hours a workweek would have a ratio of ½ to eight hours or four hours a day. A day is also defined as eight hours for other purposes such as probation, longevity, etc.

Demotion - Movement into a classification having a salary grade with a lower entry pay amount than the previously held classification.

Disability supplement pay (DSP) - Pay from the city for the purpose of supplementing an eligible employee's weekly temporary income benefit for a compensable injury.

Disability termination - A termination type that occurs when the employee terminates from the City because of an illness or accident that renders the employee unable to perform the job. Disability termination can be from a job-related injury or disease or a non-job-related injury or disease. For job-related injuries or diseases, if approved for disability retirement, the employee has the opportunity to be vested in the City's retirement plan for full retirement, even if not employed by the City for up to five years. Non-job-related injuries, if approved for disability retirement, are treated the same as regular retirement for only the years of service rendered.

Disciplinary probation - A definite period of time (usually three to six months), during which an employee is expected to improve serious, specified deficiencies in performance, behavior, or attendance, while being monitored closely by a supervisor.

Discrimination complaint - When an employee alleges disparate (unequal) treatment. The acceptable basis upon which to file a discrimination complaint includes race, color, national origin, sex, pregnancy, transgender, gender identity, gender expression, religious affiliation, political affiliation or belief, age (over 40), sexual orientation, genetic information, veteran status, and disability status (including contagious diseases such as tuberculosis in the non-contagious state and HIV).

Division Head - An employee in a management position that has decision-making ability and supervisory authority over a division or workgroup within a department. Examples of job titles that are considered to fall within this group include Manager and Superintendent.

Doctor - a doctor of medicine, osteopathic medicine, optometry, dentistry, podiatry, or chiropractic who is licensed and authorized to practice in the State of Texas.

Documented counseling - Also known as an oral warning. Type of discipline issued for minor policy, procedural, or conduct infractions. Provided to the employee in writing.

Domestic partner - A domestic partner is defined as an individual of the same or opposite gender as the employee, who is 18 years of age or older, who has lived in the same household as the employee for at least six months and shares resources of life in a close, personal intimate

relationship with the City employee, neither of whom is married or related by blood, if, under Texas law, the individual would not be prevented from marrying the employee on account of consanguinity or prior undissolved marriage to another.

DOT position - A job where employees may operate commercial-type vehicles and for which a commercial driver's license (CDL) is required.

Driving Under the Influence - Driving a motor vehicle while in a state of intoxication. The Texas Penal Code, Chapter 49.01(2) defines intoxication as "not having the normal use of mental or physical faculties by reason of the introduction of alcohol, a controlled substance, a drug, a dangerous drug, a combination of two or more of those substances, or any other substance into the body; OR (b) having an alcohol concentration of .08 or more."

Drug - A narcotic drug, controlled substance, or marijuana as defined in the Comprehensive Drug Abuse Prevention and Control Act of 1970, 102, 21 United States Code 802, as amended; it also includes alcoholic beverages, prescription drugs not taken as directed and illegal inhalants, as per the Texas Workers' Compensation Act of 1991 V.A.T.S. 8308-1 and the regulations promulgated there under.

Drug test - A scientifically recognized chemical test administered in accordance with Department of Health and Human Services guidelines which analyzes an individual's urine for evidence of marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines (this test consists of two parts, an initial test and a confirmatory test, respectively conducted with portions of the same original specimen).

DWC-73 Work Status Report (DWC-73) - Texas Department of Insurance, Division of Workers' Compensation form that examining doctors are required to complete after a medical examination of an injured employee. The form identifies the injured employee's ability to work, and any physical restrictions to work.

Employee - An individual who is hired for compensation and who performs work for the City. This includes regular Full-Time, Part-Time, Seasonal and Temporary employees. A contractor or volunteer is not an employee.

Employee Assistance Program (EAP) - A program that assists employees and their family members in dealing with emotional and personal problems, including alcohol and drug abuse, affecting or potentially affecting the employee's work performance and safety.

Examining doctor - A treating doctor, referral doctor, required medical exam doctor, or designated doctor who is authorized by the Labor Code and Rules to examine the medical condition of an injured employee. An opinion of a "designated doctor" is given presumptive weight when resolving questions about: (1) the impairment caused by a compensable injury; (2) the attainment of maximum medical improvement; (2) the extent of the employee's compensable injury; (4) whether the injured employee's disability is a direct result of the work-related injury; (5) the ability of the employee to return to work; or (6) issues similar to those described by items (1) – (5) above.

Full City Contribution- the amount budgeted by the City to be paid toward healthcare benefits for the majority of Regular, Full-Time Employees.

Full duty - Performance of the essential functions of the employee's pre-injury job, with or without accommodation

Functional Capacity Examination (FCE) - An in-depth, detailed and technical medical assessment of a person's physical abilities to perform the person's job duties, administered by a licensed physical or occupational therapist. An FCE consists of a series of tests to measure physical strength, range of motion, and stamina of an injured person. The FCE is used to evaluate work tolerance, and the necessity for work restrictions. An evaluator skilled in functional capacity

evaluation will use a battery of standardized tests, designed around key factors that include diagnosis, impairment, pain and functional limitation, referral questions, and, in some instances, the case resolution goal. An FCE is more detailed and comprehensive than the Human Performance Evaluation (HPE).

Furlough - A furlough is a temporary layoff from work, during which an employee is without duties or pay because of a lack of work or funds or for other non-disciplinary reasons. For the purpose of calculating deadlines under the Personnel Rules and Regulations, a day that has been declared by the City Manager as a mandatory furlough day is not considered a working day. Allowable work hours are determined by reducing a 40-hour workweek by the number of mandated furlough hours for that week.

General employee - Employees who are required to join the Retirement Fund.

Gift - Any benefit, favor, service, advantage, privilege or thing of value that is transferred to an employee's possession or use. Gifts could include, but are not be limited to: trips, money of any amount, merchandise, foodstuffs, and tickets to sports, civic or cultural events; also included are personal services or work provided by City suppliers or customers, as well as offers of future employment from City suppliers or customers that transferred to an employee's possession. Gifts ordinarily do not include items that would not ordinarily be interpreted as affecting an employee's impartiality, such as an occasional, moderately priced business lunch, potted plants or flowers, boxes of candy for office personnel, "gimme caps," or advertising office supplies, such as pencils, calendars, or pens, or other token gifts of small value. All gifts that are transferred to employees might be subject to review by the City's Ethics Review Commission.

Grievance - A formal protest of a suspension (of 10 days or less) or disciplinary probation

Harassment - Negative, disrespectful, or oppressive actions of one person or group who mistreat another person or group. Harassment may include threats, insults, name calling, sabotage, and damage to property. Harassment may be based on sex, race, religion, or other protected categories, and may include express or implied threats of personal harm, including threats and demands.

Hostile work environment - A situation that occurs when a reasonable person would conclude that the workplace has become hostile or abusive. The situation usually occurs when employees harass or mistreat other employees, and the abusive behavior is severe or pervasive.

Holiday - A period of eight hours designated by City Council as a day that nonessential City services and offices are closed and employees may take off from work with pay.

Hours worked - The time an employee is required to be on duty, on the employer's premises, or at a prescribed workplace.

Human Performance Evaluation (HPE) - Human Performance Evaluation (HPE) - A physical abilities test performed by a physical or occupational therapist. The HPE is a scientifically valid simulation of physical work performed by employees who are in moderate to heavy physical demands job classifications. The purpose of the HPE is to assess an employee's ability to pass the simulated work test prior to returning to work. The HPE is administered by the City's contracted preferred provider of occupational health services. The employee must attend and pass the HPE before returning to work after being off from a workers compensation illness or injury. The HPE is less detailed and less comprehensive than the Functional Capacity Evaluation (FCE).

Illegal use of a prescription medicine - Means taking medication that has been prescribed to someone else. It also means taking medication after the expiration date has passed or taking more medication than has been prescribed.

IME doctor - A doctor who performs an IME (Independent Medical Exam).

Immediate family member - In the case of all leave policies other than the Family and Medical Leave Act (FMLA), an immediate family member is defined as wife, husband, domestic partner, mother, father, grandmother, grandfather, brother, sister, son, daughter, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandson, granddaughter, stepmother, stepfather, stepson, stepdaughter, stepbrother, stepsister, sister-in-law, brother-in-law, grandmother-in-law and grandfather-in-law. This includes extended family members for domestic partners. For the purpose of Family Leave under FMLA, immediate family members are limited to an employee's spouse, children and parents.

Income benefits - Compensation made to an employee for a Compensable Injury.

Independent medical exam (IME) - A medical examination by a doctor who is not the employee's treating doctor or preferred medical provider under the city's health benefits program. The IME is performed by a doctor who is neutral and performs the medical examination to determine factors such as whether the employee: can return to work; has temporary or permanent disabilities; or has reached MMI.

In loco parentis - For the purpose of FMLA, "in loco parentis" may be established by providing day-to-day responsibilities to care for or financially support a child, or who had such responsibility for the employee when the employee was a child. Examples include a grandparent who assumes ongoing responsibility for raising a grandchild or an employee who provides day-to-day care for his or her unmarried partner's child (with whom there is no legal or biological relationship) but does not financially support the child.

Insubordination - Willful failure or refusal to follow specific orders or instructions of a supervisor.

Job abandonment - When an employee fails to come to work for three consecutive days without calling a supervisor or a medical records coordinator or giving any type of notification.

Job carving - a supported employment strategy designed to provide additional employment opportunities for individuals with autism and other disabilities.

Job family code - Represents a group of job classifications with similar job functionality and purposes, such as Public Safety, Service Trades, Clerical or Department director. Classifications within a job family may include exempt and nonexempt classifications and classifications spread through the salary grades. A job family represents specific classifications in an occupational field.

Labor code - The Texas Workers' Compensation Act as codified in the Texas Labor Code, Title 5, Subtitle A.

Lactation - Expression of breast milk to store for a baby's later use.

Lateral transfer - The movement of an employee from one position to another position in the same classification with the same pay grade as the previously held classification. A lateral transfer may be within a department or between departments.

Life-changing event - A life-changing event for the purpose of benefit eligibility and administration consists of one of the following:

- Death of the employee.
- Death of the employee's spouse.
- Death of an employee's dependent.
- Marriage of the employee.
- Divorce of the employee.
- Birth or adoption of a child.
- Loss of outside health coverage.
- Change of employee's employment status.

- Change in spouse's employment status.

Limited duty - A temporary return-to-work assignment based on an examining doctor's assessment of the employee's medical condition and identified restrictions to duty. Limited duty may consist of: (1) temporary modifications to the employee's normal job duties; (2) assignment to alternative duties within the department; or (3) assignment to alternative duties provided by another city department. A limited-duty assignment is made through a bona fide offer of employment. A limited-duty assignment is not a permanent work assignment or job. The limited-duty assignment must be productive work, consistent with the evaluating doctor's identified restrictions to duty, and the employee must possess the necessary skills to perform the assignment.

Limited Time/Duration Positions - Temporary, Seasonal and Part-Time positions

Long-term disability - Type of insurance that protects income against a sudden loss due to a catastrophic illness or injury. It replaces lost wages due to the illness or injury.

Look-back Measurement Period - Refers to the period used to calculate the average number of hours an employee actually worked per work week in order to determine eligibility for health benefits and City contribution during the immediately ensuing "stability period" under provisions of the federal Patient Protection and Affordable Care Act (PPACA) that take effect January 1, 2015.

Marshal - Employees who are state-certified peace officers in accordance with the rules of the Texas Commission on Law Enforcement Standards and Education (TCOLE) and who work in the City Marshal's Office.

Maximum medical improvement (MMI) - The earlier of:

- 1) the earliest date after which, based on reasonable medical probability, further material recovery from or lasting improvement to an injury can no longer reasonably be anticipated;
- 2) the expiration of 104 weeks from the date on which income benefits begin to accrue;
- or
- 3) the date a Commissioner of Insurance order for an extension of the 104 week period expires.

Medical records custodian (MRC) - Staff person designated by the department director to serve as the department's custodian of employee medical records. The MRC performs the functions specified in Administrative Regulation D-10 "Protection of Medical Records."

Normal scheduled hours - The hours of work scheduled by management that an employee is required to work for the routine performance of duties. Normal scheduled hours does not include overtime hours worked, on-call duty, or stand-by duty.

Observed holiday - An employee is not required to perform work on the holiday, even though the employee is regularly scheduled to work on the calendar day of the holiday.

OHS - The Occupational Health & Safety/Workers' Compensation Division of the Human Resources Department.

On-call - Occurs when an employee is not required to remain on the City's premises but is asked to leave word at his/her home or with his/her supervisor as to where and how he/she might be reached for callback. Employees assigned to an "On-Call" status may be asked to have a cell phone or other communications device available to receive calls. On-Call time is not work time, therefore, it is not paid time

Oral warning - Type of discipline issued for minor policy, procedural, or conduct infractions. Also known as Documented Counseling as the oral warning must be documented in writing.

Overtime - The time worked in excess of 40 hours in a defined FLSA workweek.

Parent - The biological or adopted parent of an employee or an individual who stands or stood in place of a parent (in loco parentis) to the employee when the employee was a child. This does not include “parents-in-law.”

Part-Time - Part-Time employees are those who are scheduled to work 20 hours or less in a workweek. These employees are not eligible for healthcare insurance or leave benefits or participation in the pension plan. These employees participate in the FICA Alternative Plan and may be eligible for other benefits offered by the city. A Part-Time position is one in which an employee is scheduled to work 20 hours or less in a workweek.

Pay period - Regularly recurring period of 336 hours in the form of 14 consecutive 24-hour periods.

Person within the first degree of relation - Spouse or domestic partner, father, mother, son, daughter, father-in-law, mother-in-law, son-in-law, daughter-in-law.

PIP - Acronym for Performance Improvement Plan. This is a plan written by a supervisor for the purpose of counseling an under-performing employee, and assisting the employee in improving the quantity and/or quality of the employee’s work.

Pre-termination meeting - A meeting that allows an employee an opportunity to respond to the reasons being considered to terminate their employment.

Program - In regards to alcohol and drug misuse, refers to the City alcohol and drug abuse program that implements the policy and procedures for prevention, deterrence, and rehabilitation aimed at eliminating the possession, use, distribution, sale, or consumption of drugs or alcohol in the workplace.

Promotion - Movement into a classification having a pay grade with a higher entry rate than the previously held classification.

Protected classes - Race, color, national origin, sex, pregnancy, transgender, gender identity, gender expression, religious affiliation, political affiliation or belief, age (over 40), sexual orientation, genetic information, veteran status, and disability status (including contagious diseases such as tuberculosis in the non-contagious state and HIV).

Regular pay - Pay to an employee at the employee’s current rate of pay for normal scheduled hours. Regular pay does not include overtime or special pays (holiday pay, shift differential pay, incentive/bonus pay and awards, special merit pay, acting pay, bilingual skills pay, emergency call back pay, on-call or stand by duty pay, longevity pay, assignment pays, longevity supplement pay and clothing allowance).

Regular retirement - A termination type that occurs when the employee terminates employment for the primary purpose of retiring from the City to receive a monthly pension.

Regular termination - A termination type that occurs when an employee resigns or is dismissed from City employment, either before or after being vested in the City retirement plan, and chooses to withdraw their contributions to the retirement plan in one lump-sum distribution.

Rule(s) - Administrative rule(s) or regulation(s) promulgated and adopted by the Commissioner of Insurance, Department of Workers Compensation, as necessary for the implementation and enforcement of the Labor Code. The applicable Rule(s) are published in the Texas Register and are codified in the Texas Administrative Code, Title 28, Parts 2 and 6.

Sabotage - Destruction of City property or equipment or a deliberate action taken to undermine a coworker or department’s work or productivity, either by active means, such as vandalizing equipment, or by passive means, such as refusing to meet productivity goals, i.e., a work slow-down.

Scheduled hours - A timekeeper or manager may assign any work schedule with any number of hours to any employee.

Seasonal employee - Seasonal employees are scheduled to work 40 hours or more per week, but for no longer than five months in a year. These employees are not eligible for health or other benefits or participation in the pension plan. These employees participate in the FICA Alternative Plan and may be eligible for other benefits offered by the city. Any benefits provided to Seasonal employees will be on a pro-rata basis, based on hours scheduled to be worked in a workweek in comparison to 40.

Secondary employment - Any job, work or business, part-time or full-time, for self or another person, firm, company or organization, for which salary or other economic benefits, including free or discounted goods or services, are received.

Shift - An assigned work schedule of consecutive regular hours that when worked or when leave is used result in the employee earning pay for a 40-hour work week. The number of assigned shifts or shift hours will not exceed 40 hours in a week. An assigned shift may result in shift hours occurring in two consecutive days. Shift hours will be reported on the day the hours were worked for pay, leave and benefits such as holiday time.

Solicitation - Requests for support, usually financial, for an organization or cause, such as a charity, religious organization, employee association, personal profit, or civic activity. Solicitations usually involve distribution of information and literature, and often include sales of products, and requests for donations of service, money, or goods.

Son - For the purposes of FMLA, a son is biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in place of a parent (in loco parentis), who is under 18 years of age or is 18 years or older and is incapable of self-care because of a mental or physical disability.

Spouse - A husband or wife as defined or recognized under State law for purposes of marriage or a common-law spouse as recognized by the State of Texas. Unmarried domestic partners are not spouses.

Standard hours - Standard hours is based on the employee full-time equivalent (FTE). If the position is less than 1 the standard hours are reduced from 40. For example a position with .75 would have standard hours of 30. A FTE of .5 would have standard hours of 20. Leave and holiday hours are pro-rated based on the standard hours and FTE. Exempt employees earn compensatory time for all hours exceeding the standard hours in a work week. Non-exempt employees earn overtime or comp time for all hours exceeding 40 in a work week.

State Division of Workers' Compensation (DWC) - Texas Department of Insurance/Division of Workers' Compensation, the State of Texas agency authorized by the Texas Legislature to implement and enforce the Texas Workers' Compensation Act in Texas.

Substance abuse professional (SAP) - In regards to alcohol misuse, refers to an individual who has clinical experience in recognition and treatment of alcohol/drug dependency and meets all DOT qualifications.

Supplier - Any existing or potential City vendor, consultant, contractor, developer, regulatory agency, or any public utility corporation having a franchise granted by the City.

Suspension - A period of time during that an employee is prohibited from reporting to work and/or performing any job duties. A suspension might be either paid or unpaid. Paid suspensions are usually issued during a time that an investigation is being conducted and it is necessary to remove the employee from the workplace until a decision has been made about their employment. Unpaid suspensions are usually issued as disciplinary actions for work rule violations.

Tardiness - More than six minutes late for your scheduled work start time or your scheduled return from lunch or break, as applicable.

Temporary Employee - An employee in a position that will last no longer than one year and which is project focused. Temporary employees may be eligible for health benefits depending on the number of hours they work (if they actually work an average of 30 hours or more over a designated “look-back period”). Temporary positions may be extended for up to an additional year by petitioning the Budget Office. These employees are not eligible to participate in the pension plan and instead participate in the FICA Alternative Plan.

Temporary shift - A supervisor removes an employee from his or her regular shift and temporarily assigns the employee to a different shift for training, minimum staffing, meetings or other reasons.

Temporary income benefits (TIBS) - Wage replacement benefits to an injured employee who loses wages because of time away from work due to a compensable injury. The amount of TIBS is equal to 70 percent of the employee’s average weekly wage, subject to the maximum benefit amount set by DWC.

TIBS waiting period - The first seven (7) calendar days of “disability” due to an injury. “Disability” under the Labor Code is defined as “the inability to obtain or retain employment” because of the injury. Disability is basically equivalent to days of lost time.

TPA - third party administrator - The organization under contract with the City of Fort Worth to provide workers’ compensation claims administration services in accordance with the Labor Code and in accordance with the Insurance Code, Title 13, Subtitle D, Chapter 4151, Subchapter A, *Third Party Administrators*.

Transfer - The movement of an employee to a classification with the same salary grade as the previously held classification.

Unprofessional conduct - Conduct contrary to reasonable behaviors or expectations for an employee while at work or while conducting city business or representing oneself as a city employee on or off the job.

Unscheduled absence - An absence is unscheduled when an employee does not give advance notice and receive supervisory approval prior to the scheduled shift start time. Advance notice should typically be given at least 24 hours in advance of scheduled shift but supervisory approval can be given within less than 24 hours for emergency situations.

Use of alcohol or a drug - The consuming of an alcoholic beverage, the taking of a drug (whether orally, by inhalation, or by injection), or being under the influence of alcohol or a drug.

Vacation leave – Paid time used by an employee to take care of personal matters, to relax and to enjoy time off from work.

Workers’ compensation coordinator (WCC) - Staff person designated by the department director to assist OHS in administering the workers’ compensation program.

Workers’ compensation leave (WCL) - Time away from work for the purpose of an injured employee to attend a health care appointment for a compensable injury. The time is recorded as “WCL” and is paid at the employee’s regular pay rate.

Work schedule - The assigned, regularly reoccurring work shifts that an employee is expected to work in a workweek. See HR Advisory: Alternative Work Schedules for more information.

Work time - See “hours worked.”

Workday - For most employees, the standard period of 24 hours, which begins at 12:01 a.m. and ends at midnight. Any schedule that is so unusual it will not allow the tracking of leave will be handled as an eight-hour day for purposes of determining leave.

Working day - Days on which the affected employee is regularly scheduled to work. For purposes of suspensions, a working day is eight hours in duration, even if the employee is regularly scheduled to work more hours in a day. Therefore, a suspension of one day will equal eight hours without pay.

Workplace - All City offices, facilities, construction sites, temporary laboratory sites, maintenance sites, vehicles and any other location where an employee is performing assigned duties.

Workweek - The time span of seven consecutive 24 hour periods within which the City calculates overtime hours and corresponding compensation for nonexempt employees (hours over 40). The workweek begins at 12:01 a.m. on Saturday morning and ends at midnight on the following Friday for most employees. This must not be confused with the "work schedule."

Department directors or designee may adjust the workweek to adequately cover the work to be performed. Changes in the workweek must be approved by the Human Resources Department and implemented in the pay system.

Written warning - A type of discipline issued for policy, procedural or conduct infractions that do not result in a loss of pay.

Year - A calendar year beginning January 1st and ending December 31.